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House of Representatives

The House met at 9 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Eternal Father, You have taught us that even good leaders must themselves be led; that wise legislators must themselves have a wiser guide; that wielders of power must themselves serve under a higher power. Be to all in this Chamber that leader, wise guide, and higher power.

Grant to the Speaker of the House of Representatives and to all who serve or have served here as Members, as to all in positions of public trust, that lofty vision, deeper wisdom and that stewardship of power that will lead this Nation to peace and prosperity and bring true righteousness and lasting justice upon this Earth.

Such gifts come from You alone, Heavenly Father, so we turn to You, both now and forever. Amen.

THE JOURNAL

The SPEAKER. 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. Will the gentleman from Texas (Mr. DELAY) come forward and lead the House in the Pledge of Allegiance.

Mr. DeLAY 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.

RECESS

The SPEAKER. Pursuant to the order of the House of Thursday, May 12, 2005, the House will stand in recess subject to the call of the Chair to receive the former Members of Congress.

Accordingly (at 9 o'clock and 3 minutes a.m.), the House stood in recess subject to the call of the Chair.

RECEPTION OF FORMER MEMBERS OF CONGRESS

The Speaker of the House presided.

The SPEAKER. First of all, I want to say good morning. On behalf of the House of Representatives, I am very pleased to welcome you all back. Some of you served before the time I was here; some of you were colleagues that I had the great honor to serve with.

Meetings like this present a unique opportunity. We get to tell you everything that we are doing here, and you get to tell us everything we are doing wrong. You become more seasoned as former Members, and we certainly appreciate that. Seriously though, I am always glad to see this group and hear about all the great things that each of you continues to do for our Nation.

My good friend from the Midwest, Dan Coats, somebody who I attended college with deep in the Midwest, is one of those people. He started his career representing Indiana in the House of Representatives. Dan then moved on to the Senate, where he served for 10 years until 1999, and then served as ambassador to Germany from 2001 until February of this year. Dan is certainly a worthy choice to receive the Distinguished Service Award, and I would like to extend to him my sincere congratulations.

This organization serves a valuable purpose. From your work on college campuses teaching young people about the value of public service, to your work abroad in places like Germany and Japan, you spread the good news about the importance of our democratic government and our institutions.

I had the opportunity last week to meet with a delegation of former Members who spent a great deal of the time around their holiday and before in the Ukraine trying to make a difference, trying to help a fledgling nation really bring about the birth of democracy. They were successful.

Just yesterday here in the House we announced Members to serve on the House Democracy Assistance Commission. These are Members who are going to go out and work with emerging democracies. They are going to provide expert advice to parliaments and to parliamentarians in selected countries, and one day they can bring those experiences and that expertise to your organization as well. It is our vision that your experience, your expertise begin to meld and blend with what these Members of Congress are trying to do. So you see, our goals really do mirror one another.

I want to thank you once again for your continuing work on behalf of the American people.

Before requesting that the gentleman from Kansas, Mr. Slattery, vice president of the Former Members Association take the chair, the Chair recognizes the distinguished majority leader, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Thank you, Mr. Speaker. I appreciate the words that you just spoke in honoring our former Members that are here today, and some that are here in spirit.

Friends and honored guests, I want to welcome you back home. It is an honor to have back again the Association of Former Members of Congress, a very esteemed organization. I have to tell you, Ms. PELOSI has been encouraging me to join your organization for some time now.

Former Members Day is always a treat for me, because when you put 2 decades of your life into an institution, it is always reinvigorating to see so many friendly faces from days and battles gone by. As I look at both sides of

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the aisle, Beryl Anthony is here, who showed me kindness. As a freshman I walked in, and he as a Democrat actually wanted to meet me and wanted to work with me.

Jim Slattery and Dan Coats had a great deal to do in changing my heart; Leader Michel, who tried to teach me patience; Bill Alexander really taught me a lot about the legislative process; and Ron Mazzoli sent a grandchild to my district, which I greatly appreciate. He is not voting yet, but we are working on him.

We did not always agree on everything back then, and I suppose we still do not; but the fact is we are all part of the same heritage of service to this body and to this Nation. No matter how long you have served or when, if you have sat in this Chamber, you helped write at least a bit of America's history. Much more importantly, by staying active in the Association of Former Members, you are still serving your country and still helping to make history.

In your post-congressional careers, many of you have gone on to bigger and better things. There is life after Congress, and we understand that. Many of you have stayed in Washington and served here, and others have returned home to do the same. But regardless of where you are and how you are spending your time, everyone left behind here in Congress still feels your presence and still builds on the legacies that you have left here.

So, I, for one Member, thank you all for staying involved, for the work you do around the world, and for your continued service to this House and to this Nation.

Thank you all, and God bless you.

The SPEAKER. I now recognize the gentleman from Kansas.

Mr. SLATTERY (presiding). Mr. Speaker, thank you very much, and, Mr. Leader, thank you also for your kind words. It is great to see both of you. We deeply appreciate the leadership and the support that you have given our association as we move forward with the work that we are attempting to do around the world and here in the United States with the Congress to Campus Program. So thank you very much for also helping coordinate this event here today. It is good to see you.

At this time, I would like to recognize the Clerk of the House for the purpose of calling the role.

The Clerk called the roll of the former Members of the Congress, and the following former Members answered to their names:

FORMER MEMBERS OF CONGRESS PARTICIPATING IN 35TH ANNUAL SPRING MEETING THURSDAY, MAY 19, 2005

Bill Alexander (Arkansas)
Beryl Anthony (Arkansas)
Jim Bates (Ohio)
J. Glenn Beall (Maryland)
Jim Broyhill (North Carolina)
John Buchanan (Alabama)
Jack Buechner (Missouri)
Beverly Byron (Maryland)
Rod Chandler (Washington)
Dan Coats (Indiana)
John Conlan (Arizona)
Larry DeNardis (Connecticut)
Joe Dioguardi (New York)
Tom Ewing (Illinois)
Lou Frey (Florida)
Martin Frost (Texas)
Don Fuqua (Florida)
Bob Hanrahan (Illinois)
Margaret Heckler (Massachusetts)
George Hochbrueckner (New York)
Marjorie Holt (Maryland)
Bill Hughes (New Jersey)
David King (Utah)
Herb Klein (New Jersey)
Ernest Konnyu (California)
Ken Kramer (Colorado)
Peter Kyros (Maine)
John LaFalce (New York)
Jim Lloyd (California)
Ken Lucas (Kentucky)
Andrew Maguire (New Jersey)
Romano Mazzoli (Kentucky)
Matt McHugh (New York)
Bob Michel (Illinois)
Clarence Miller (Ohio)
Stan Parris (Viginia)
Howard Pollock (Alaska)
Will Ratchford (Connecticut)
Jay Rhodes (Arizona)
George Sangmeiser (Illnois)
Ron Sarasin (Connecticut)
Jim Flattery (Kansas)
Steve Symms (Idaho)
Lindsay Thomas (Georgia)
Wes Watkins (Oklahoma)

The SPEAKER pro tempore. The Chair is pleased to announce that 37 former Members of Congress have responded to their names.

At this time the Chair would like to recognize the distinguished gentleman from Missouri, Jack Buechner, who is president of our association.

GENERAL LEAVE

Mr. BUECHNER. 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 this meeting.

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

There was no objection.

Mr. BUECHNER. I thank the Chair, and I want to join with the majority leader and the Speaker in welcoming all of my colleagues of the Former Members Association and for our visiting guests who are here from North America and also from Europe, former parliamentarians and administrative staff all. Thank you. I want to thank all of you for being here with me this morning. We are especially grateful to Speaker HASTERT for taking time from his busy schedule to greet us and for his warm welcome. It is always an honor and privilege to return to this magnificent institution which we revere and in which we shared so many memorable experiences.

Service in Congress and public service in general is both a joy and a heavy responsibility. Service in Congress creates an attitude amongst your families and your friends that some days the burden of the Nation is greater than what besets most human beings in their lives. We want to thank you all again for the service that you have rendered and that you continue to render as you serve as members of the Association of Former Members of Congress.

This is our 35th annual report to Congress. Our association is nonpartisan. It has been chartered by Congress, but receives absolutely no funding from the Congress. We have a wide variety of domestic and international programs which several members and I will discuss briefly.

Our membership numbers approximately 570. Our purpose is to continue in some small measure the service to country which began during our terms in the Senate and the House of Representatives.

Our finances are sound. We support all of our activities via three income sources: membership dues, program grants, and our annual fund-raising dinner. In addition, we have had the good fortune of a bequest by the widow of a former Member of Congress, Frieda G. James, who was married to Benjamin Franklin James, a five-term Republican from Pennsylvania, who has generously endowed much of what we do.

During the presidency of my esteemed colleague, Larry LaRocco of Idaho, the association established an endowment fund. The goal of this fund is to ensure the financial viability of the Former Members Association for many years to come. We envision a time when investment earnings of this endowment fund can be used to supplement the association's budget during lean years, a safety net to guarantee that tough economic times will not shut down the work of the association.

Several of our Members have already made contributions to this fund, and association staff is in the process of creating some new marketing materials to solicit further donations. Again, many thanks to my predecessor Larry LaRocco for his leadership in this area.

Mr. Speaker, our association has had an incredibly active and successful year. We have expanded many of the programs that are traditionally associated with our organization, and we have created several new ventures. I am therefore very pleased to now report on this program work of the U.S. Association of Former Members of Congress.

The Congress to Campus Program is our most significant domestic undertaking. This is a bipartisan effort to share with college students throughout first this country and now the world our unique insight on the work of the Congress and the political process more generally.

Our colleague from Colorado, David Skaggs, has been managing this program for the association for the last 3

years. This is a project of his Center For Democracy and Citizenship, which is centered at the Council For Excellence in Government. He has partnered this organization with the Stennis Center For Public Service. David is not able to be with us this morning. I submit for the RECORD his report on the accomplishments of the program over the 2004–2005 academic year.

CONGRESS TO CAMPUS PROGRAM—REPORT TO THE ANNUAL MEETING OF THE U.S. ASSOCIATION OF FORMER MEMBERS OF CONGRESS, MAY 19, 2005

INTRODUCTION

The Congress to Campus Program addresses a significant shortfall in civic learning and engagement among the country's young people of college age. It combines traditional educational content about American government and politics (especially Congress) with a strong message about public service, all delivered by men and women who have walked the walk. The Program sends bipartisan pairs of former Members of Congress—one Democrat and one Republican—to visit college, university and community college campuses around the country. During each visit, the Members conduct classes, hold community forums, meet informally with students and faculty, visit high schools and civic organizations, and do interviews and talk show appearances with local press and media.

In the summer of 2002, the Board of Directors of the U. S. Association of Former Members of Congress (Association) engaged the Center for Democracy & Citizenship (CDC) at the Council for Excellence in Government to help manage the Congress to Campus Program (Program) in partnership with the Stennis Center for Public Service (Stennis). CDC and Stennis, with the blessing of the Association, have worked together since to increase the number of campuses hosting Program visits each year, to expand the pool of former Members of Congress available for campus visits, to develop new sources of funding, to raise the profile of the Program and its message in the public and academic community, and to devise methods of measuring the impact of the program at host institutions.

INCREASED QUANTITY AND QUALITY OF PROGRAM VISITS

This is the third year of the program's expansion. In the 2004–2005 academic year, the Program sponsored thirty-two visits involving forty-three colleges and universities around the country and the world—about a 25% increase in visits over the 2003–2004 academic year. [See Attachment 1—Roster of '04–'05 Academic Year Visits & Participants.] These visits took former Members to universities, service academies, colleges and community colleges in twenty-two different States and five countries. While the total fell short of the goal of forty for the year, it should be noted that seven additional scheduled visits were cancelled or rescheduled due to factors beyond the control of the program staff.

In addition to an increasing the number of visits, we continue to fine-tune the content and substance of Program visits based on feedback from Members and host professors. The Program asks visiting Members and host professors to complete an evaluation of each visit. This year those evaluations have prompted us to encourage host schools to include nearby colleges and universities in Congress to Campus visits and to broaden the scope of classes and activities scheduled for the former Members. We will continue to make changes in response to the suggestions of participating former Members and host faculty.

The Program asks host schools to insure contact with at least 250 students over the course of a visit, and that number is often exceeded. For the past academic year, approximately 13,000 students heard Members' unique story about representative democracy and their special call to public service.

A draft schedule of events is prepared in advance of each campus visit and reviewed by staff to assure variety as well as substance. There is a conference call before each trip with Members and the responsible campus contact person to review the revised schedule and iron out any remaining problems. Members also receive CRS briefing materials on current issues and background information on government service opportunities prior to each visit.

RECRUITING MEMBER VOLUNTEERS FOR CAMPUS VISITS

The success of the Program obviously depends on Members' participation. With travel back and forth, Members end up devoting about three days to each campus visit. This is a priceless contribution of an extremely valuable resource.

Members of the Association were surveyed again last summer to solicit information regarding their availability for and interest in a Program campus visit. Using responses to these surveys and direct contact with a number of former Members, CDC developed a pool of just over one hundred available former Members, and some fifty-four participated in visits this year. A ''bench'' of one hundred was deep enough to fill the openings during the current academic year, but more will be needed to meet the demands of future academic years. Association Members are encouraged to complete and return the survey they will receive this summer and then to be ready to accept assignments to one of the fine institutions of higher education the program will serve next year.

FUNDING SOURCES

In addition to the generous contribution of money and staff time made each year by the Stennis Center for Public Service, the Association, with the assistance of the American Association of Retired Persons, has substantially increased its support of the Program. Other organizations have also provided funding to help with the expansion of the Congress to Campus Program for this academic year including the Boeing Company, the German Marshall Fund (visit specific) and the Ford Foundation (visit specific). While Stennis' commitment to the Program is ongoing, funding from the other organizations is being provided on a year by year basis. The effort to find new sources of funding for Congress to Campus is a continuing challenge.

Host schools are expected to cover the cost of Members' on-site accommodations and local travel and to make a contribution to cover a portion of the cost of administering the Program. A suggested amount of contribution is determined according to a sliding-scale based on an institution's expenditures per pupil [see Attachment 2—Application Form]; a waiver is available to schools that are not able to pay the scale amount. Several schools received a full or partial waiver in 2004–2005. Still, school contributions produced several thousand dollars in support of the program.

Additional funding sources will be necessary if the expansion of the Program—clearly justified by the interest expressed by schools seeking to host a first or a repeat visit and by the assessment of its positive effects (see below)—is to be maintained.

INTERNATIONAL INITIATIVE

Congress to Campus made its first international visit in October 2003 to the United Kingdom. An earlier Association study tour had laid the groundwork for the visit and had established a relationship with Philip John Davies, Director, Eccles Centre for American Studies at The British Library and Dennis Spencer Wolf, Cultural Attache at the U.S. Embassy. The success of the 2003 visit led to a second visit in the fall of 2004 and a planned third visit in November 2005.

This academic year Congress to Campus broadened its international reach by sponsoring visits to Canada (University of Toronto), Germany (University of Bonn, University of Cologne and European University Viadrina), and China (Fudan University and Sun Yat-Sen University). The visit to Germany was made possible through the support of the German Marshall Fund. The Ford Foundation is providing support for the visit to China.

PROGRAM OUTREACH AND PUBLICITY

The increased number of institutions hosting and applying to host a Congress to Campus visit is the result of a multi-faceted outreach effort. Association leadership and numerous former Members, as well as staff at CDC and Stennis, have made many personal contacts on behalf of the Program. In addition, CDC Executive Director and former Member David Skaggs has made several public presentations in behalf of Congress to Campus and informational material has been e-mailed directly to all members of the APSA Legislative Studies Section, as well as to many other college and university organizational contacts.

Campus press and media at host institutions are offered access to visiting Members. Each host institution is also encouraged to make commercial print and broadcast media interviews a part of each Congress to Campus visit's schedule.

MEASURING THE PROGRAM'S IMPACT

Over the years, anecdotal information has tended to validate the basic premise of the Congress the Campus Program—that these visits by former Members of Congress positively affect students' views of public service and government officials. In an effort to confirm this anecdotal information, during the 2002–2003 and 2003–2004 academic years, the Program asked host schools to have students complete one-page surveys. The surveys elicited students' views on public service careers and feelings about different categories of public officials; they were completed by a group of students who attended sessions with the former Members and by a control group of similar students who did not have contact with the former Members.

While all schools hosting a visit did not return the surveys, the data that was generated for the 2002–2003 and 2003–2004 academic years shows that the underlying goals of the Congress to Campus program are sound. Those students who have contact with former Members during their Congress to Campus visits have a measurably more favorable view of public servants and of public service as a career option than similar students who do not have the opportunity to interact with the visiting former Members.

In previous years, we have reported preliminary findings of these student surveys. The data collected over the full two-year study has now been analyzed by the Center for Information and Research on Civic Learning and Engagement (CIRCLE) at the University of Maryland. Their final report [see Attachment 3] confirms our preliminary finding and found that the Congress to Campus Program had a statistically significant positive impact on student's attitudes towards public service and public servants.

As noted above, the Program requests the principal contact at each host school to submit an evaluation. We receive valuable feedback on various aspects of each visit and try

to incorporate lessons learned and helpful suggestions in the on-going effort to improve the Program. The best indication of satisfaction with the Program is the fact that every school visited this year has said it would like to host a Congress to Campus Program visit again.

CONCLUSION

The Program has made significant progress toward achieving its new goals. The number of campus visits has increased significantly each of the past three academic years to a level this academic year that represents a 350% increase over 2001–2002 levels. However, Program funding remains a matter requiring attention. There is continuing success in efforts to raise the public profile of the Program, but more needs to be done. Finally, objective data, as represented in our two-year study, supports the basic premise of the Congress to Campus Program: That campus visits by Members are effective in raising interest in public service careers and in improving attitudes about public officials among the students who participate in Program events.

ATTACHMENT 1

Congress to Campus Program

The United States Association of Former Members of Congress

2004 –2005 VISITS AND PARTICIPANTS

Fall Semester

University of South Dakota – September 12-14, 2004
(Vermillion, South Dakota)
Bill Roy (D-KS) & Bill Barrett(R-NE)

University of Baltimore – September 12-14, 2004
(Baltimore, Maryland)
Ed Derwinski (R-IL) & Lloyd Meeds (D-WA)

Roger Williams University – September 19-21, 2004
(Bristol, Rhode Island)
Mike Forbes (D-NY) & George Wortley (R-NY)

Columbia College/Winthrop University – September 20-23, 2004
(Columbia & Rock Hill, South Carolina)
Liz Patterson (D-SC) & Jan Meyers (R-KS)

SUNY Brockport – September 26-28, 2004
(Brockport, New York)
Andy Jacobs (D-IN) & Orval Hansen (R-ID)

United Kingdom – October 10-16, 2004
De Montfort University, University College Northampton, Nottingham University
Jack Buechner (R-MO) & Dennis Hertel (D-MI)

Central Michigan University – October 12-14, 2004
(Mount Pleasant, Michigan)
Beverly Byron (D-MD) & Barry Goldwater, Jr. (R-CA)

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University of Massachusetts – October 17-19, 2004
(Amherst, Massachusetts)
Dan Miller (R-FL) & Bob Clement (D-TN)

Allegheny College – October 18-20, 2004 *
(Meadville, Pennsylvania)
Bill Clinger (R-PA) & Jim Lloyd (D-CA)

Jamestown College – October 19-21
(Jamestown, North Dakota)
Harold Volkmer (D-MO) & Jay Dickey (R-AR)

University of Idaho/Washington State University – November 8-11, 2004
(Moscow, Idaho & Pullman, Washington)
Jim Lloyd (D-CA) & Orval Hansen (R-ID)

Manchester College – November 14-16, 2004
Manchester, Indiana
Jerry Patterson (D-CA) & Peter Torkildsen (R-MA)

Spring Semester

Indiana University at Kokomo – January 23-25, 2005
Steve Kuykendall (R-CA) & Sam Coppersmith (D-AZ)

Eastern Michigan University – February 2-4, 2005
(Ypsilanti, Michigan)
Dan Miller (R-FL) & Mike Forbes (D-NY)

Murray State University – February 6-8, 2005
(Murray, Kentucky)
Manuel Lujan (R-NM) & Ron Mazzoli (D-KY)

University of Nebraska - Omaha – February 20-22, 2005
Jan Meyers (R-KS) & Owen Pickett (D-VA)

Syracuse University – February 20-22, 2005
Rod Chandler (R-WA) & Toby Moffet (D-CT)

U.S. Naval Academy – February 27 - March 1, 2005
(Annapolis, Maryland)
Larry Pressler (R-SD) & David Skaggs (D-CO)

ATTACHMENT 1

Georgia College & State University– February 27 - March 1, 2005
(Milledgeville, Georgia)
Martha Keys (D-KS) & Bill Barrett (R-NE)

University of North Florida – February 27- March 1, 2005
(Jacksonville, Florida)
Buddy Darden (D-GA) & Bill Goodling (R-PA)

University of Toronto - March 1-4, 2005
Bob Carr (D- MI) & Dan Miller (R-FL)

Virginia Military Institute – March 6-8, 2005
(Lexington, Virginia)
Stan Parris (R-VA) & Ken Hechler (D-WV)

Abilene Christian University – March 13-15, 2005
(Abilene, Texas)
Robert Daniel (R-VA) & Harold Volkmer (D-MO)

Oakland University – March 13-15, 2005
(Rochester, Michigan)
Bill Roy (D-KS) & Arlen Erdahl (R-MN)

Vanderbilt University – March 17-18
Nashville, Tennessee
Butler Derrick (D-SC) & Jim Broyhill (R-NC)

High Point University/UNC Greensboro – March 20-23, 2005
(North Carolina)
Bill Zeliff (R-NH) & Earl Hutto (D-FL)

Western Kentucky – April 3-5, 2005
(Bowling Green, KY)
Mike Ward (D-KY) & Lou Frey (R-FL)

Colby College – April 3-5, 2005
(Waterville, Maine)
David Minge (D-MN) & Ron Sarasin (R-CT)

Mercer University – April 10-12, 2005
(Macon, Georgia)
Jim Bilbray (D-NV) & Orval Hansen (R-ID)

Coast Community Colleges District (3 schools) – April 10-12, 2005
(Orange County, CA)
Glen Browder (D-AL) & Denny Smith (R-OR)

ATTACHMENT 1

Germany (Univ of Bonn & Univ of Frankfurt-Oder) April 23 – May 1, 2005
University of Bonn, University of Cologne (Frankfurt-Oder), European University Viadrina (Berlin)
Matt McHugh (D-NY) & John Anderson (R-IL)

China Fudan University/Sun Yat-Sen University– May 24-June 1, 2005
Fudan University (Shanghai), Sun Yat-Sen University (Guangzhou)
Larry Pressler (R-SD) & Harris Wofford (D-PA)

ATTACHMENT 2

Congress to Campus Program

The United States Association of Former Members of Congress

in partnership with

center for DEMOCRACY and CITIZENSHIP

and

STENNIS Center for Public Service

APPLICATION FOR CONGRESS TO CAMPUS VISIT

Please complete this form (you may include attachments as needed) and email, fax or mail copies to:

Congressman David Skaggs
Center for Democracy & Citizenship
1301 K Street NW, Suite 450 West
Washington DC 20005
Fax: 202-728-0422
Email: congresstocampus@excelgov.org

Name of Institution _____

Address _____

Sponsoring Department _____

Responsible Contact Person _____
[This individual must have authority to act for the host school regarding all arrangements and aspects of the visit.]

Address _____

Email _____ Phone _____ Fax _____

Submitted by _____ Date: _____
[signature]

Revised 5.05

ATTACHMENT 2

Background on Institution [founding; governance; accreditations; degrees offered; student body size and characteristics; faculty size and characteristics; geographic area served; religious affiliation; endowment; if this information is readily available on your website, just provide the address for the website.] (Attach additional sheet, if needed.)

Please check those activities from the following list you expect tentatively to be able to include in the Members' schedules if your application for a visit is approved. Experience suggests that allocating most of the visit to a variety of classes works best.

- ❑ Introductory classes in political science or U. S. government [Please try to avoid multiple appearances in different sections of the same course.]
- ❑ Advanced classes in political science or U. S. government, including courses in the Congress, political theory or foreign affairs
- ❑ Classes in political philosophy or history*
- ❑ Classes in other disciplines [e.g., health, science, engineering, environment] for students who may be interested in public service careers or who simply need a better grounding in American government*
- ❑ ROTC classes
- ❑ One-on-one or "office hours" style meetings with individual students interested in public service or political careers [To work well, this option needs to be well publicized, preferably with advance sign-up.]
- ❑ Campus political clubs, e.g., Campus Democrats and Young Republicans
- ❑ Campus extracurricular activities or clubs with some public policy dimension, e.g., an environmental or international relations club
- ❑ Campus speaker series or open campus forum [Please be prepared to do some work to publicize such a session, or give class credit, or risk low attendance.]
- ❑ Meeting with student government organization or leadership
- ❑ Meetings with school president, chancellor, dean or other senior administrator [This option is offered if it meets a real need for your school; there is no need for a meeting just for protocol reasons; if included, should be *brief.*]
- ❑ Meeting with career counseling staff regarding public service
- ❑ Faculty departmental colloquium
- ❑ Interview with campus newspaper(s) and radio station
- ❑ Interview with local newspaper(s) and editorial board(s)
- ❑ Interview or talk show appearance with local radio station(s)
- ❑ Interview or talk show appearance with local TV station(s)
- ❑ Meeting with community service organization(s), e.g., Rotary, Lions, League of Women Voters
- ❑ Community talk or forum, e.g., "town hall" type meeting at a public library
- ❑ Class visits or assembly at local high school

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* At least one class should be in a discipline other than political science or government studies.

ATTACHMENT 2

- ❑ "In-service" teacher training on Congress, federal government for middle and high school social studies teachers arranged through local school district(s)
- ❑ Major federal government installation or major private sector employer near campus able to host a session with a significant number of employees
- ❑ Meeting with local government officials, e.g., appearance at City Council or County Board session or meet with state legislators
- ❑ Other (specify) _____

While it is not possible to include all the activities suggested above, the schedule for each visit should include a good variety of activities and not be limited only to classes. Please include at least one class from outside the political science (or government studies) department. Visits typically cover 2 full days following Members' arrival, with no more than two nights on site. If Members arrive the evening before the schedule begins, they will expect to depart in time to get home the evening of the second day of scheduled events; if they arrive on a morning, they will expect to leave after noon on the third day. Activities may be scheduled from 8 or 9 AM until (as late as) 9 PM, including (some) meal times; for each 4 or 5 hours of scheduled time, an hour of "down" time should be set aside (this may be lunch hour), with facilities for Members to check emails and use a phone. Please attach a proposed schedule for your school visit, comprised of two full days, incorporating the elements tentatively checked above. Please indicate the number of students expected at each proposed activity. (The Program hopes for both quality and quantity, with substantive contact with at least 250 students during a visit as a goal.)

If your application is approved, you will need to submit a complete schedule for the visit at least one month prior to the visit; this is a critical deadline. For class presentations, the instructor for the course should provide brief written guidance to the Members in advance of the visit about what they should discuss during the class period and how it fits into the course (a copy of the course syllabus is helpful. Program staff may request revisions to the schedule if necessary to meet Program standards. Formal campus tours and other area touring are secondary to the Program's educational objectives and generally should be avoided.

Preferred dates for a visit that fit your academic calendar. _____

Transportation: nearest airport; distance from campus; means of transportation to campus. _____

_____

Other considerations that make your school a good site for the Program. _____

_____

_____

ATTACHMENT 2

The host school is expected to cover the on-site expenses for Member accommodations, meals and local transportation. Please understand that the average Congress to Campus visit also entails about $5000 in administrative, overhead and transportation expenses. In order to make the Program as widely available as possible, we would also like to recover a portion of those costs, based on the host school's ability to pay. Please indicate the financial category applicable to your institution from the following schedule. _____

Host School Suggested Contribution

Category	Current expenditures per "full-time" student*	Suggested contribution
A	$30,000 or more	$3500
B	$20,000 to $29,999	$2500
C	$10,000 to $19,999	$1500
D	$9999 or less	$750

We do not want this cost-sharing goal to prevent any school that wishes to host a visit from doing so. With that in mind, do you need a waiver of all or part of the applicable contribution, and, if so, do you also need assistance with on-site costs? ____ (If 'yes,' please attach an explanation and statement of need signed by an appropriate financial officer of the school.)

Where or how did you learn about the Congress to Campus Program? _____

Note: The host school contact person will be responsible for identifying faculty members who will assist in administering a brief survey instrument to be completed after the Congress to Campus visit by a sample of students in classes visited by Members and by an otherwise comparable sample of students in classes *not* visited. The purpose of this survey is to determine any difference (change) in attitude about politics, government and public service in one group compared to the other, and so to indicate the impact of the visit on student attitudes. In addition, the host school contact person will be expected to complete an evaluation of the visit and to report on print and electronic media coverage of the visit, the expenses paid by the school in connection with the program visit, and the student attendance at each event on the schedule.

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* The expenditures figures used to calculate the contribution level should be for the most recent academic year and should be readily available from your school's business or finance office. They are standard data used by the Department of Education's Integrated Postsecondary Education Data System (IPEDS). For public institutions that follow the GASB 34/35 reporting model, use your school's total expenses – the sum of Operating Expenses and Non-Operating Expenses. Public institutions using the College and University Audit Guide should use the total of current funds expenditures and mandatory transfers. Independent institutions following the Not-for-Profit Audit Guide should use the expenses category. The enrollment figures should come from the IPEDS data for the current academic year, converted to a full-time equivalent enrollment based on one full-time student per three part-time students.

ATTACHMENT 3

Memorandum

Date: August 1, 2004
To: David Skaggs, Executive Director,
Center for Democracy and Citizenship, CEG
From: Mark Hugo Lopez, Ph.D.,
Research Director, CIRCLE
Subject: The Congress to Campus Presentation Experiment

I have taken a close look at the data from the Congress to Campus program for 2003 and 2004, and generally students in the treatment group were more likely to have positive views of public service careers and public institutions than students in the comparison group with most differences of interest statistically significant, though there are some concerns about the validity of the experiment and causality.

I have divided the memo into several sections, the first of which examines the quality of the experiment, the next two assess the outcomes of interest. Finally, the memo concludes with comments, recommendations, and caveats.

Assessing the Quality of the Experiment

As a first step to evaluating the impact of the Congress to Campus program experiment, I examined both the treatment and comparison sample on a range of background characteristics. If this were a randomized experiment, the treatment and comparison groups would look similar statistically on a range of observed background characteristics, and this is what I am looking for as I assess the quality of the experiment.

All demographics for merged data from 2003 and 2004 are contained in Table 1, and a cursory look at the data suggests that the treatment and comparison samples are very similar in their distributions of gender, race/ethnicity, and age. For each of these variables, there are no statistical differences in their distribution across the treatment and comparison groups, suggesting that assignment to the treatment or the comparison group was not a function of either of these observed characteristics, which is good.

However, there are some difficulties with the distribution across the treatment and comparison groups of the background characteristics class and whether or not the student had discussed a career in public service with a counselor. In each of these cases, the treatment and comparison groups are not similar in their characteristics, with the treatment group more likely to have fourth year students than the comparison group, and less likely to have first year students than the comparison group. Furthermore, the

treatment group was more likely to have students who had talked with a guidance counselor about a career in public service.

Taken together, these statistics suggest that the assignment to the treatment and comparison group samples is good, but not excellent. More than likely the greatest difficulty with the assignment is the dissimilarity between the treatment and comparison group samples on the measures of class standing and school. However, the even distribution across gender and race/ethnicity between the treatment and control groups lends plenty of support to the overall validity of the experiment, though one should be cautious about causality.

Furthermore, some caution should be taken when making statements about the possible treatment effects of the Congress to Campus program on college students generally since the comparison and treatment groups do not look like the general college student population, at least as of 2000. The treatment and comparison samples are more likely to be male, white and younger than the general college student population.

Measuring Differences in Self-Reported Career Option Viewpoints

One of two outcomes examined with these data is the viewpoint of college students towards potential career choices. Table 2 and Graph 1 display the average response across all occupational groupings for the treatment and comparison groups. Generally speaking, treatment and comparison group students express "neutral/ok" opinions of every career option except Agriculture/Farming and Manufacturing/Industrial, which is expected given that this is a group of college students.

In only two cases are there statistical differences between the responses of treatment and comparison group students. In the area of "State or Local Government Service" and "Federal Government Service" treatment group students express a higher level of positive opinion about these careers for themselves than do comparison group students. For both career options, treatment group students express an average opinion that is 0.2 points higher than the opinions of comparison group students. While it is difficult to claim that there is a casual relationship between participation in the Congress to Campus program and opinions of careers in public service, it is suggestive that there is a modest improvement in expressed opinions of public service as a career option.

I have explored these differences further with a multivariate analysis, and in both cases, the estimated differences in opinion (for careers in federal or state and local service) between comparison and treatment groups are statistically significant once gender, race/ethnicity, school, counseling experience, age and class are controlled for. I would be happy to share these results with you if you would like to see them at a later date. Given that observed differences hold up in a multivariate environment for federal and state and local career viewpoints, these estimated program effects may indeed be robust, and a reflection of true program effects.

Measuring Differences in Views of Public Officials

Table 3 and Graph 2 show average responses to the question about student views of public officials in various public institutions. In all cases, treatment group students express greater positive views of public institutions than comparison group students except in the area of firefighters and police, with all differences statistically significant. On average, the improvement in views after participation in the Congress to Campus program is on the order of 0.15 points.

In this case, I have also estimated multivariate models, and have found that all statistical differences are robust once controls for gender, race/ethnicity, class, age, school and counselor guidance have been controlled for.

Conclusions

Students who participated in the Congress to Campus speaker program generally express more positive views of public service career choices and of public institutions than students who were not exposed to the program treatment. Furthermore, the experiment appears relatively good since on many background characteristics there are no differences between the comparison and treatment groups of students. While I believe one should be cautious when interpreting these results (many more controls are needed to assess the validity of the experiment), they are suggestive that there are modest gains in views of public service associated with participation in the Congress to Campus Program.

Recommendations

Analysis of this data entailed several data cleaning efforts, and a superior data collection would alleviate the need for large scale cleaning efforts. If a future evaluation is planned, several changes to the survey instrument should be considered. These include:

1. Reverse the scoring scale to read 1 "very unfavorable" to 5 "very favorable."
2. Ask for more background information such as parental income, parental education, how often the student reads the newspaper or watches the news, grade point average, and whether or not the student has ever worked for the public sector in an internship. We have very little information on background characteristics, and in order to more properly assess the validity of the experiment, more background characteristics would be useful.
3. It might be worthwhile, in any future evaluation, to perform a "Solomon Four" style assessment. This would entail the administration of the survey instrument before and after participation in the program for the treatment and comparison groups. This way, one could perform an analysis that looks at gains in views rather than a cross-sectional comparison between the treatment and comparison groups.

Cautions and Caveats

In the process of performing this analysis, I reversed the coding on all the variables so that a "5" would represent "very favorable" and "1" would represent "very unfavorable." Note that by doing this, my averages are 1 point higher than those reported in the graphs you had initially shared with me (the method used to calculate the means in those graphs presented an average that was a full point too low). This suggests that the students in both the treatment and comparison samples actually have a more favorable view of public sector career options and institutions than was shown before.

I also urge caution in the interpretation of these results since

1. Estimated program effects are rather small, and do not necessarily translate into large swings in student opinion of careers in the public sector or their views of public sector institutions as a result of program participation.
2. The measurement of views was taken immediately after the treatment. We would need to know what happens one month later, six months later, or one year later.
3. The sample of colleges is limited to Midwestern and east coast schools.
4. This was not a randomized experiment, and we can only discuss "associations", not causation.
5. The treatment may not have been similar across schools.

Table 1 – Demographic Characteristics
(2003 & 2004 Merged Data)

	Treatment Group	Comparison Group	All U.S. Undergraduates, 2000
Background Characteristics			
Female	0.465	0.476	0.551
White	0.805	0.809	0.688
African American	0.068	0.075	0.113
Latino	0.038	0.035	0.095
Asian	0.050	0.042	0.064
Mixed Race	0.036	0.035	
Native American	0.004	0.005	0.001
Class Year			
First	0.418	0.443	***
Second	0.282	0.276	***
Third	0.174	0.181	***
Fourth	0.114	0.082	***
Grad	0.002	0.009	***
Age			
18	0.237	0.233	0.231
19	0.331	0.300	
20	0.180	0.217	0.370
21-24	0.212	0.210	
25 or older	0.037	0.036	0.390
Talked with a Guidance Counselor about a Career in Public Service	0.814	0.710	***
Sample Size	1,929	1,274	15,312,000

Table 2 – Career Choices
(2003 & 2004 Merged Data)

	Treatment Group	Comparison Group
Feelings of Career Options for Self in:		
Private Enterprise - Corporate	3.391 (1.163) [1,912]	3.309 (1.185) [1,262]
Private Enterprise – Small Business	3.594 (1.069) [1,913]	3.619 (1.067) [1,259]
Professional (law, medicine, journalism, accounting, etc.)	3.861*** (1.200) [1,917]	3.717 (1.182) [1,263]
State or Local Government Service	3.190*** (1.158) [1,902]	3.072 (1.155) [1,253]
Federal Government Service	3.282*** (1.245) [1,914]	3.106 (1.230) [1,261]
Military Service	2.502 (1.498) [1,909]	2.529 (1.512) [1,259]
Public Safety: Fire, police	2.712 (1.287) [1,900]	2.750 (1.287) [1,259]
Teaching	3.391 (1.291) [1,910]	3.474 (1.280) [1,257]
Non-Profit, community service	3.023 (1.250) [1,906]	3.097 (1.268) [1,259]
Agriculture/Farming	2.110*** (1.213) [1,905]	2.270 (1.248) [1,259]
Manufacturing/Industrial	2.120*** (1.139) [1,903]	2.274 (1.192) [1,255]

Note: Students were asked to rate career options for themselves on a scale of 1 to 5, where 1 is very unfavorable, 2 is unfavorable, 3 is ok, 4 is favorable, and 5 is very favorable. All reported figures above are means, with standard errors in parentheses and sample sizes in brackets. *** indicates statistical significance between the treatment and comparison groups at the 5 percent level of statistical significance.

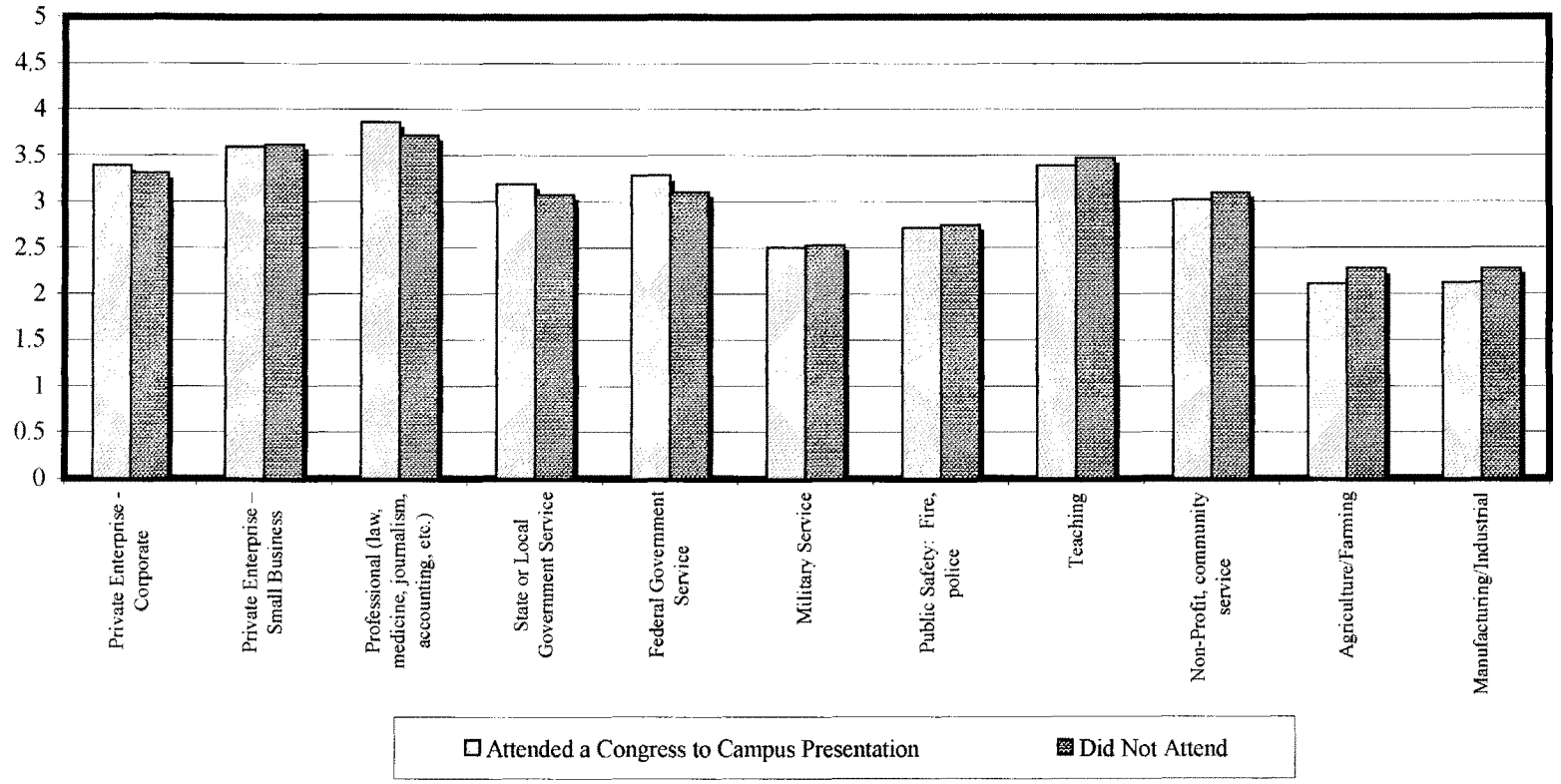
Table 3 – Student Views
(2003 & 2004 Merged Data)

	Treatment Group	Comparison Group
Views of:		
Federal Government	3.663*** (0.949) [1,920]	3.481 (0.990) [1,266]
State and Local Government	3.598*** (0.877) [1,920]	3.435 (0.891) [1,269]
U.S. Congress	3.553*** (0.908) [1,920]	3.354 (0.942) [1,264]
Politicians	3.016*** (0.938) [1,918]	2.760 (0.961) [1,266]
Candidates for Elected Office	3.170*** (0.849) [1,915]	3.014 (0.860) [1,261]
City or Town Council	3.368*** (0.889) [1,917]	3.258 (0.871) [1,265]
State Legislature	3.353*** (0.837) [1,914]	3.203 (0.832) [1,259]
Government and Civil Service Employees	3.496*** (0.911) [1,917]	3.376 (0.886) [1,264]
Firefighters and Police	4.059 (1.020) [1,921]	4.006 (0.994) [1,267]

Note: Students were asked to provide views of public sector groups/institutions on a scale of 1 to 5, where 1 is very unfavorable, 2 is unfavorable, 3 is ok, 4 is favorable, and 5 is very favorable. All reported figures above are means, with standard errors in parentheses and sample sizes in brackets. *** indicates statistical significance between the treatment and comparison groups at the 5 percent level of statistical significance.

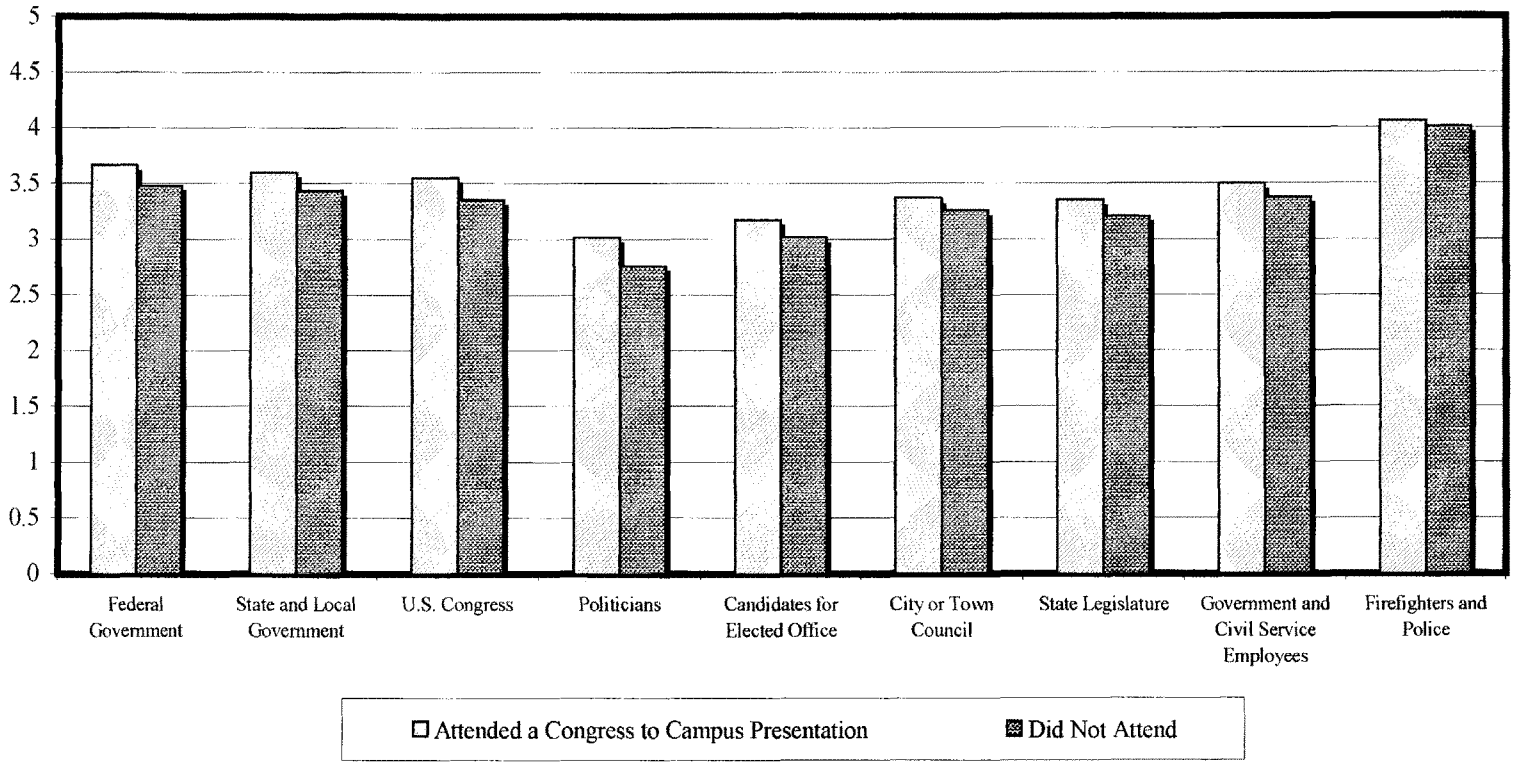
Graph 1: CAREER OPTIONS (2003 & 2004)

Please rate how you feel personally about each of the following career categories as an option for yourself, from 1 (very unfavorable), 2 (unfavorable), 3 (OK/neutral), 4 (favorable), to 5 (very favorable).



Graph 2: FEELINGS ABOUT GOVERNMENT OFFICIALS (2003 & 2004)

Please indicate your feelings, from 1 (very unfavorable), 2 (unfavorable), 3 (OK/neutral), 4 (favorable), to 5 (very favorable), about each of the following.



I would now like to yield to Bev Byron of Maryland and Ron Sarasin of Connecticut for their reports on the Congress to Campus Program.

The SPEAKER pro tempore. The gentlewoman from Maryland is recognized.

Ms. BYRON. Mr. Speaker, I have not forgotten what side I belong on.

Let me, first of all, say I am delighted to share with some of our members who have not participated in the Congress to College Program some of the things they have done. I made a commitment to myself several years ago that I would give back at least one visit a year to a college campus, and I started saying I am giving it back. Actually, I have gained so much from each and every one of those visits.

The program has grown 350 percent since 2002. There is no question that it is making an impact on college campuses. We are now finding campuses that are saying can we get former Members to come. It is a commitment of basically 2 days.

Last fall, Barry Goldwater, on my note here it says from California, although Barry is living in Arizona right now, and I went to central Michigan. Well, I have a husband from Michigan, and I was not familiar with where central Michigan is. It is a wonderful, wonderful school, a very large school, a very exciting school. We spent 2 days interacting with the students, the faculty, the local community, a senior citizen center, and the media.

One of the things that I like to stress with the college students, not only is Congress the ultimate for many people in the political arena, but government service is a wonderful thing for them to be involved in. And as I looked around the room, they kind of were glazing over a little. I said, you know, government service is not just Congress; it is not putting your name on a ballot. It is participating in your PTA, on your school board, in the zoning commission hearings. It is your local legislative bodies. So it is serving in a government capacity to your community across the board.

So as we finished our 2 days of activities, I think both Barry and I left with a great sense of some contribution, and hopefully out of the group that we spoke to we will find one or two of those members that will be in this body one day.

My colleague Ron Sarasin is going to talk a little bit about his experiences. But for those of you that have not had an opportunity, it is a wonderful opportunity.

I yield to the gentleman.

Mr. SARASIN. I thank the gentlewoman from Maryland for yielding, and I would like to explore with you some of my own experiences with the program. I have been fairly active with it. It is not only an opportunity to continue to give back in a way, but it is a very rewarding personal opportunity. You get more out of it than you give.

In April, I had the opportunity to spend 2 days at Colby College in Waterville, Maine, with our colleague Judge David Minge from Minnesota.

These visits always provide an opportunity for students and faculty to see that Republican and Democrat former Members of Congress are in fact real people, that we can enjoy each other's company, that we probably agree on more issues than we disagree, and if we disagree, we will do it without being disagreeable. I think that in itself is a lesson to students and faculty, and I think they come away with a great deal from it.

As Ms. Byron pointed out, part of our mission is to encourage people to get involved in public service, to encourage them to look at the political aspect and the supportive aspects of the Congress and government in general.

The experience for us is a rewarding one. It is good for our own egos to have someone ask us our opinion and seem to value it when we give it to them. As we know, one of the things you learn very quickly after you leave the Congress is that your views just do not seem to carry as much weight as they used to, and the thing you really learn is that your jokes just do not generate as much laughter as they did when you were a sitting Member of Congress.

Our very gracious host at Colby was a professor named Sandy Maisel, who himself had run for Congress some years ago, unsuccessfully; and then he wrote a book about his experience, and the title of the book is ''From Obscurity to Oblivion.'' Is that not a wonderful title for a book, for a politician especially?

All in all, it was a very great experience for everyone involved. I would encourage every Member here and every former Member out across the country to get involved in this program, because it is fun, it is a couple of days on a college campus, and it is a great experience personally. I know that all of you who have participated have enjoyed it and come away with a feeling that you got more out of it than you gave.

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

Mr. SARASIN. I yield to the gentleman from New York.

Mr. MCHUGH. Thank you for that explanation. It really is a marvelous program that many of us have experienced. I wanted to mention briefly that the German Marshall Fund this year for the first time sponsored a bipartisan team to go to Germany and spend a week visiting campuses in Germany. John Anderson and I went just a few weeks ago and had a great experience meeting with the students and faculty, and indeed others as well.

I think it is a particularly important time to promote these kinds of exchanges, because, as you know, there are some differences these days between our friends in Europe and the United States; and I think the exchange of views was very useful, both for us and hopefully for the students as well. I hope that the Marshall Fund will sponsor additional teams, and I would certainly encourage my colleagues to take advantage of that if they do.

Thank you very much.

Mr. SARASIN. I thank the gentleman for his comments.

Mr. BUECHNER. I thank the gentlewoman and the gentleman for describing those wonderful efforts on the Congress to Campus Program.

To sort of amplify what the gentleman from New York just brought forward, we also have for 2 years now sent a team to England to speak to different universities and to the Eccles American Study Center at the British Library. I was there the week before the U.S. election, and I got a lot of questions. I was sort of a stand-in for George Bush, and it was one of the most interesting things that I have ever done.

One outgrowth of the Congress to College Program was an interest in producing a book that would take an inside look at Congress from different views. Under the leadership of our colleague Lou Frey of Florida, the association published a compilation of essays written by former Members of Congress describing their experiences before, during, and after serving on Capitol Hill.

The result was ''Inside the House: Former Members Reveal How Congress Really Works.'' Probably not as catchy a title as the one the gentleman from Maine had, but it has been a great success. It is being used by several political science departments in universities and colleges across the country. Lou is now soliciting submissions for another book, and I am sure he will talk about that when he has the floor to report on our annual fund-raising dinner.

Another domestic program the association undertakes is a cooperative project with the Library of Congress. Through a generous grant from the American Association of Retired Persons, the association is working to involve former Members of Congress in the Library's Veterans History Project.

This program honors our Nation's war veterans and those who served in support of them. It creates a lasting legacy of recorded interviews and other documents chronicling veterans' and other citizens' wartime experiences and how those experiences affected their lives and America itself. We have been able to connect numerous former Members who served in World War II with this wonderful program, and soon our attention will focus on the veterans of the Korean War.

Mr. Speaker, beyond the programs we administer dealing with domestic issues, the association is very active in overseeing international programs. These involve both former Members of Congress and current Members of Congress. The association has played an important role in fostering dialogue between the leaders of other nations and the United States.

We have arranged almost 500 special events at the U.S. Capitol for international delegations from over 80 countries and the European Parliament. We have hosted meetings for individual members of parliaments and parliament staff, and organized more than 50 foreign policy seminars in over a dozen countries involving more than 1,500 former and current parliamentarians, and conducted over 20 study visits abroad for former Members of Congress.

The association serves as the secretariat for the Congressional Study Group on Germany. This is the largest and most active exchange program between the U.S. Congress and the parliament of another country. It is the flagship international program of the association, and it is a bipartisan organization with approximately one-third of the sitting Members of Congress participating.

The Congressional Study Group on Germany serves as a model for the other study groups under the umbrella of the Former Members Association. Again, none of these programs operate with Federal money or support.

For over 20 years, the Congressional Study Group on Germany has been a forum for lawmakers from Germany and the United States to communicate on issues of mutual concern. The study group was founded in 1983 as an informal group and was established as a formal organization in 1987.

The primary goal of the study group is to establish a forum for communication between Members of Congress and their counterparts in the German Bundestag. Ongoing study group activities include conducting a Distinguished Visitors Program at the U.S. Capitol for guests from Germany, sponsoring annual seminars involving Members of Congress and the Bundestag, and organizing a Senior Congressional Staff Study Tour to Germany each year.

The Congressional Study Group on Germany is funded primarily by the German Marshall Fund. That is the premier non-governmental organization with a transatlantic mission. Additional funding to assist with administrative expenses has been received from 12 corporations whose representatives now serve on a Business Advisory Council to the study group. The business group is chaired by former Member of Congress Tom Coleman, who as a Member from Missouri served as the chairman of the study group in 1989.

The study group has established itself as the most productive means of communication between the U.S. Congress and the German Bundestag. The Federal Republic of Germany is one of the most important allies that we have in the United States, and the study group has been instrumental in helping to cement transatlantic ties over the years.

The most visible activity of the group is the Distinguished Visitors Program, which enables Members of Congress to meet personally with high-ranking German elected officials, such as Minister Joschka Fischer, Germany's Federal Minister of Foreign Affairs and Vice Chancellor of the Federal Republic of Germany, or President of the German Bundestag, Wolfgang Thierse.

The highlights of each programming year is the Congressional Study Group on Germany's annual seminar. Every year the study group brings Members of Congress together with German legislators for several days of focused discussion on a predetermined agenda. The parliamentarians usually are joined by several former Members, officials of the two federal governments, think-tank and foundation representatives and members of the German-American business community.

This year's seminar was held in Berlin, Brussels, and Frankfort from March 18 to March 24. A delegation of six sitting Members of Congress had the opportunity to meet during this week with about a dozen members of the Bundestag. In addition, we had a meeting with Chancellor Gerhard Schroeder and his foreign policy advisor, as well as Germany's President, Horst Koehler.

In Brussels, in addition to several other meetings, we had the chance to discuss trade relations with EU Commissioner for External Trade, Mr. Peter Mandelson.

The last leg of the annual seminar took place in Frankfort, headquarters of the European Central Bank. The President of the bank, Mr. Jean-Claude Trichet, met with the group to talk about the European Union's monetary policies.

We ended our visited to Germany by visiting the Landstuhl Military Hospital, where the Members of Congress spent time visiting with wounded U.S. servicemen and -women returning from Iraq.

During our meetings, we focused the discussion on solidifying the U.S.-German relationship in the spirit of President Bush's visit to Europe this past February. We also exchanged views on the role of NATO, cooperation in the war on terrorism, and transatlantic trade and investment questions.

A reoccurring topic was the EU's proposal to lift its arms embargo with China. Our delegation unanimously manifested its disagreement with this measure, and certainly sent a message to the German legislators to rethink this proposal.

A report about the activities of the Congressional Study Group on Germany would be incomplete without thanking its financial supporters. First and foremost, one needs to thank Craig Kennedy and the German Marshall Fund of the United States, since without him and his foundation the study group could not function at its present level of activity.

We also cannot forget Tom Coleman, a member of our organization who chairs the Business Advisory Council. His tremendous dedication in raising much-needed funds to support the administrative side of the study group has been essential. He has put together a group of companies that deserve our gratitude for giving their aid and support to cover the overhead of the program. They are Allianz, BASF, DaimlerChrysler, Deutsche Telekom, DHL, EDS, Lockheed Martin, RGIT, RWE, SAP, Siemens, and Volkswagen.

The Congressional Study Group on Germany is an example of how the Former Members Association provides an educational service to current Members and aids in the foreign relations efforts of this country. I think we can be very proud of the work we do to make this group possible, and I look forward to being an active participant in the activities of the Congressional Study Group on Germany for many years to come.

Modeled after the Congressional Study Group on Germany, the association established a Congressional Study Group on Turkey at the beginning of this year. Turkey, one of our strategic allies, is situated at the crossroads of many important challenges of the 21st century. Peace in the greater Middle East, expansion of the European Union, and the transformation of NATO are all definitely issues that this study group will entertain.

Mr. BUECHNER (presiding). I now yield to our Speaker pro tem, Mr. Slattery of Kansas, to comment on this exciting new endeavor of the Association.

Mr. SLATTERY. I guess it is permissible for me to speak from this side, right?

Mr. Speaker, it is a pleasure for me to report on this new project that the association is undertaking. At the beginning of this year, the association established the Congressional Study Group on Turkey. The study group is modeled after our flagship international program, the Congressional Study Group on Germany.

The study group on Turkey brings former and current Members of Congress together with their legislative peers, government officials and business representatives in Turkey and serves as a platform for all participants to learn about U.S.-Turkey relationships firsthand.

Thanks to funding from the Economic Policy Research Institute, a new think-tank established by the Turkish business association TOBB, the study group has started a Distinguished Visitors Program in Washington. This program involves events for Members of Congress such as roundtable discussions or breakfast-luncheon panels featuring visiting dignitaries from Turkey. The events take place every 6 to 8 weeks on Capitol Hill and focus on critical issues relating to the bilateral relationship between Turkey and the United States.

Additional support from the German Marshall Fund of the United States has allowed the study group to initiate the first U.S.-Turkey seminar, which we hope will become a yearly event.

The seminar is a week-long conference for U.S. Members of Congress to discuss areas of mutual concern with their legislative counterparts in Turkey. The 2005 U.S.-Turkey seminar will take place in Ankara, Istanbul and Cyprus at the end of this month. This year, participants will examine topics such as democratization in the Middle East, the war on terror, and Turkey's membership negotiations with the European Union.

The U.S. Association of Former Members of Congress is very pleased to add this study group to its portfolio of international programs. It is certain to attract great interest in Washington and in Ankara.

Let me just add to this that I want to encourage all of you that are here today and those that may be watching this on C–SPAN to be aware that this association is really undertaking greater responsibilities in this international work. I am very excited about the opportunity that members of this association have to contribute to democracy-building efforts around the world. I think it is going to present a very, very rewarding opportunity for former Members to continue their service to this country in a very worthwhile international endeavor.

I want to bring that to your attention, and I hope that all of you will take a greater interest in the work of the association as we expand this international work.

Mr. SLATTERY (presiding). Mr. Buechner.

Mr. BUECHNER. Thank you, Mr. Speaker. Staff has notes here: ''Do not trip during exchange of places.''

Thank you for your report, Jim. We are all very excited about this new undertaking.

Mr. Speaker, the association also serves as the Secretariat for the Congressional Study Group on Japan and the Congressional Study Group on Mexico.

Founded in 1993 in cooperation with the East-West Center in Hawaii, the Congressional Study Group on Japan is a bipartisan group of 71 sitting Members of the House and Senate, with an additional 36 Members having asked to be kept informed of study group activities. The Congressional Study Group on Japan arranges opportunities for Members of Congress to meet with their counterparts in the Japanese Diet, in addition to organizing discussions for Members to hear from American and Japanese experts. The Congressional Study Group on Japan is funded via a generous grant from the Japan-U.S. Friendship Commission.

Last, but not least, the association administers the Congressional Study Group on Mexico. U.S-Mexican relations are a priority, and not solely defined by the issue of immigration. The Congressional Study Group on Mexico is a unique organization in that it serves as a bipartisan forum for U.S. legislators from both the House and Senate to engage on issue-specific dialogue with Mexican elected officials and government representatives.

The goal of the group is for the two countries' political decisionmakers to receive a comprehensive picture of the issues revolving around U.S.-Mexico relations. The study group also replicates this forum for senior congressional staff. Topics such as border security, trade and narcotics trafficking are just a sample of the subjects pertinent to the bilateral relationship with Mexico.

In addition to these exciting programs involving sitting Members of Congress, the association is extremely pleased to have created this year a new international program exclusively for the former Members of Congress, the Former Members Committee on France.

The goal of this project is to involve former Members of Congress in the transatlantic dialogue, a little bit frayed around the edges in the last few years, between Washington and Paris. We believe that our membership can contribute greatly to bringing about a better understanding of the issues governing U.S.-French relations to both the U.S. Congress and the French National Assembly. We have had several panel discussions and meetings involving visiting French dignitaries, such as current French senators serving on their International Relations Committee.

In addition, our Members have had the opportunity to hold small group discussions on issues such as lifting the weapons ban on China; and we have had those discussions not just with staff and embassy personnel, but also with current members of the French Parliament.

We are working closely with France's ambassador to the United States, Jean-David Levitte, and are currently looking forward to many more opportunities to contribute to this important relationship.

Mr. Speaker, as you can see, there have been many thrilling new developments in 2004 and 2005 for our association, such as the Congressional Study Group on Turkey or the Former Members Committee on France. But few undertakings have energized and excited our membership as our foray into election monitoring.

During 2004, the U.S. Association of Former Members sent almost 60 of our Members on campaign monitoring and election observation missions abroad. The association has a long history of participating in legislative-strengthening programs, for example in Hungary, Macedonia or Slovakia; but we have never utilized the unique experience and knowledge of our members in an election-monitoring project until now.

I will first yield to one of our officers, Jay Rhodes of Arizona, to reported on our activities in Ukraine, and then to association member Andy Maguire to our election-monitoring mission to Cameroon.

The SPEAKER pro tempore. The gentleman from Arizona, Mr. Rhodes.

Mr. RHODES. Thank you for giving me the opportunity to report to you on one of the, I think, most important undertakings this association has ever participated in. We were involved in a non-violent and peaceful revolution that changed a nation, hopefully for the better, hopefully permanently.

Through a partnership with the U.S.-Ukraine Foundation and a grant from the United States Agency for International Development, your association sent six separate bipartisan teams of six to 10 persons each to Ukraine, pardon me. Four of the teams monitored pre-election activities and two observed the actual elections, the first fraud-ridden November runoff, and the final historic runoff on December 26. In fact, we sent a team of approximately 30 former Members to that December 26 election, each of them obviously giving up their Christmas holidays.

Our members were each and all certified as international election observers by the Ukraine Government. We all scrupulously avoided any intimation that we were anything but neutral, supporting no candidate, no party, no election bloc. Each team was in the country for a week, and each team went far into the field, away from the major urban areas. Each had extensive meetings with representatives of political parties, government officials, election officials, candidates, the press, and the public.

We also met, of course, with U.S. officials from our embassy and from USAID. Our teams were joined by former Members of the European Union Parliament. We all experienced inconsistencies between what we were told by government and election officials and what we heard from candidates and from citizens.

After our time in the field, the teams returned to Kiev for debriefing and then departed for the States. Each team independently prepared a report on its experiences, and those reports were widely distributed among political, diplomatic, and media interests here, in Europe and in Ukraine.

Each team independently and drawing from its own experiences concluded that the election as currently being conducted was not, not, going to be free and fair; that the government-supported candidate was being given a wide advantage at the expense of the other candidates; that other candidates had little or no access to the media; that government resources were being used to support one candidacy; that government-organized efforts were used to disrupt campaign efforts and events for other candidates; and that the election was going to be stolen. Virtually every ''ordinary citizen'' with whom we met, individually or in groups, fully expected that their election was going to be stolen.

Our team that returned for the November 21 election found numerous irregularities in the voting process and the counting procedures. Many of us witnessed events of multiple voting by

persons brought in to a particular area from other parts of the country by bus and by train. These events and problems were also witnessed by our European partners and other NGOs.

That evening, the evening of the election, or, more accurately, the morning after, at about 2:00 or 2:30 in the morning, after observing not just the voting but the vote counting process, we returned to Kiev to the hotel we were staying in, which happened to be just about half a block away from Independence Square in downtown Kiev. We arrived to the sound of voices, lots of voices.

We walked that half block down to Independence Square and witnessed the start of the Orange Revolution. There were easily at 2 o'clock in the morning after the elections 100,000 people in Independence Square. This was the start. No announcements had been made about any votes at that point. Those people were there because they knew that their election had been stolen from them. This was the start of what was called the Orange Revolution, which resulted ultimately in the November 21 election being declared invalid and in the December 26 runoff election, which resulted in the ultimate inauguration of Victor Yushchenko as President of Ukraine.

There is no doubt that our effort had an impact and that we played a role in a historic event. None of us will say that we did this all by ourselves. There were a lot of people involved. But we were there, and I have no doubt that we made a difference.

We have unique perspectives, and we can play an important role in democracy building and strengthening and election monitoring; and this project has set a precedent for our association for future missions. In fact, your association is in the process of creating a new Institute For Election Monitoring in partnership with colleagues who are former members of Parliament from Canada and former members of the Parliament of the European Union. You will hear more about this effort later on.

In addition, we have discussed with Speaker HASTERT and will discuss next week with Leader PELOSI the effort that the Speaker announced to you just a moment ago, where we may be joining in an effort for democracy strengthening which had been launched by the House of Representatives yesterday. These efforts are very exciting, and they bode well for the future of your association.

I would like to say to you as a personal matter that witnessing the things that we saw in Ukraine and witnessing the will of people who are determined to express themselves and to have their expression felt and to make an impact on their government and on their country was for me one of the most moving experiences I have had in my life, and I am very grateful for having had that opportunity.

I am now pleased to yield to our colleague from New Jersey, Mr. Maguire, who will report on our election-monitoring delegation to Cameroon.

Mr. MAGUIRE. Thank you very much, Jay. I was honored also to be a member of one of the missions to Ukraine, which Jay has just described so eloquently.

Mr. President, I would refer now to another election-monitoring project that the association participated in during 2004, the monitoring of the October presidential election in Cameroon.

From October 8 through 12, the association sent a delegation of six former Members, three Republicans and three Democrats, to Cameroon to serve as official election observers for the presidential election on October 11. The delegation received certification as official election observers from the Ministry of Territorial Administration and Decentralization in Cameroon in order to enable the delegation to travel and observe freely.

According to the constitution and laws of Cameroon, the people of Cameroon are entitled to express their views on candidates and parties at the ballot box freely and without interference from any source. The mission focused exclusively on the fairness of the election process and did not advocate for any particular candidate or party.

In Cameroon, the delegation split into three groups of two and traveled within the two major cities: Yaounde, the capital; and Douala, the financial center; and also in the English-speaking southwest province. In the days prior to the election, each group traveled extensively in their respective areas, meeting with political party members, government officials and opposition representatives, attending pro-government and opposition-party events, visiting regional and district offices in charge of organizing materials for election day, and scouting out polling stations.

On election day, the delegates visited a number of polling stations throughout the day in their respective areas. The delegates were present for the opening and closing of the polls and the counting of ballots after the polls closed at locations selected by the delegates.

We evaluated a number of factors, including but not limited to the presence or absence of confusion or intimidation at the polls, the posting and availability of voter registration lists and cards, and the mechanics and transparency of the voting process.

After observing the polls on election day, the full delegation reconvened in Yaounde for a series of meetings and a brief press conference before returning to the United States. The delegation issued a report following its return that was widely distributed in diplomatic and political communities in the United States and Cameroon.

The delegation reported that it did not witness enough irregularities to disapprove of the balloting process itself, which, for the most part, proceeded in an orderly and transparent manner at the sites visited for those voters whose names did appear on the registration lists. But the delegation also concluded that structural, administrative, and equity issues must be examined and addressed to assure a free, open, and fair electoral process in Cameroon.

Violations witnessed by the delegation included confusion at polling stations, individuals denied the opportunity to vote because they were unable to find their name on the lists of registered voters, temporary police checkpoints set up between provinces that could contribute to voter intimidation, and media coverage heavily slanted to favor the incumbent.

Like most other credible observer groups that were in Cameroon, the delegation concluded that there was significant room for improvement in the administrative performance and technical competence required for full and fair operations of the voter registration process, the timely publishing nationally and in each locality of voter registration lists prior to election day, the delivery of voter registration cards, the training of polling commissions, representatives of the National Election Observatory, the training of political party representatives and other observers of the balloting process and also in the management and adjudication of any claims or charges of irregularities in connection with voter registration, campaigning, balloting and the electoral process overall.

As with our missions to Ukraine, it became apparent quickly how important a role former Members can play in this democracy-building field. I am thrilled that our association has commenced these types of activities, and I hope to be able to participate in future election-monitoring delegations.

Let me add that there are some spin-offs that are important that go beyond the monitoring of the election on election day. Let me mention three.

Our colleague, Robin Beard of Tennessee, who participated, I think, in four of the Ukraine missions, recently returned as a consultant on legislative strengthening, setting up a truly democratic process in the Parliament of Ukraine, and met with President Yushchenko and his top aides in that connection.

Another example, the Woodrow Wilson Center for International Affairs, headed by our colleague Lee Hamilton, recently put together a half-day program focused on what you do after the election: how do you continue to be involved in the process of reform after the election has taken place when there are serious problems that need to be addressed, as is the case in many countries today. That session was led by former Canadian Prime Minister Joe Clark, and I think it really does set us forward in a very useful way now on what Joe Clark referred to as the practice of follow-on to elections.

Our colleague Robin Beard and I have also had the great pleasure of joining together at the National Defense University on two occasions to talk with senior people from the military community, the security community, and the foreign policy community of 20 Near East and South Asian nations, again talking about the election process, about politics in this country, about the way the world is changing in a democratic direction.

So, Mr. President, I am delighted to present this report on behalf of the association, and I thank you very much for your acknowledging me.

□ 1000

Mr. BUECHNER. Thank you Jay and Andy.

Mr. Speaker, there are several other activities of the U.S. Association of Former Members of Congress which deserve to be highlighted today. One certainly is our Annual Statesmanship Award Dinner, chaired so exceptionally by Lou Frey of Florida. I would like to yield to Mr. Frey to report on the dinner we just held in March.

Mr. FREY. Thank you, Mr. President. Senator Coats, Ambassador Coats leaned over to me about all this good we are doing and how we are involved with democratization, and wondered if we would be available on the other side of the Capitol.

Sometimes a good idea is not a good idea. But about 8 years ago we had no source of fundraising outside of our dues. And I was president, and proposed that we have an Annual Statesmanship Award Dinner. And everybody thought it was a good idea. The only bad side is we did not have a chairman. And so 8 years later, I have had the privilege of chairing this dinner, and it has really becomes an institution in Washington now. We have had over 400 people at each and every dinner.

We not only have the dinner itself, but we have a wonderful congressional and presidential auction, which our colleague, Jimmy Hayes, works all year on doing, and it has been an event that has been really memorable in a lot of ways.

Just for your memory, the past recipients are Dan Glickman, Lee Hamilton, Lynn Martin, Norm Mineta, Vice President CHENEY, Secretary Rumsfeld. And one of, I think, the highlights was the World War II generation represented by our own Bob Michel, by Bob Dole, by Sam Gibbons, by John Glenn and by George McGovern.

For any who missed that dinner, you just missed an incredibly touching and wonderful evening. And the stories they told were great. Sam Gibbons, jumping out of his airplane with a six pack of beer. And just wonderful. And I believe our records show that we had over 161 men and women who served in some capacity in World War II as Members of Congress.

Our last honoree was John Breaux of Louisiana. And of course John is noted for working with people on both sides of the aisle. And again, it was a good evening.

We did have a highlight on our trip to France in that we had run into a French Count whose family goes back to William the Conqueror. And he had a beautiful chalet over there, and we auctioned it off, and he got carried away. He was going to give a weekend, but he ended up giving a week. He had had probably a few glasses of milk or something along the line. And we ended up with a very nice amount for it for a week. And it was one of the live auction items.

One of the other things we have tried to do, we mentioned the ''Congress to Campus'' program, is the fact that every time we are out there people have said, look, this is interesting, it really is, but this is not textbook. I mean, what is it really like? You people are talking about that. Why do you not write it down? So we decided we would do that. And we had 38 former Members of the House and Senate write chapters for the book called ''Inside the House''. It is used on a number of campuses. It is used in the War College out in Monterey. And it is a good book. It is an interesting book. And we are going to update it a little bit. And we are going to write another book which some of you, I hope, have, I know some of you have responded. Some of you have responded, and it is called ''The Rules of the Road''.

Barber Conable, you know, had one of the rules, just a wonderful guy who is not with us anymore. But his rule was, ''Never act on an economic policy that you can put on a bumper sticker.'' You know, mine were pretty simple. ''Do not fight with the press''. ''If you have to explain, you are in trouble.'' And ''never retreat; attack in a different direction.''

What we are trying to do is to get from each and every one of you what your rules are, a little explanation of it. The University Press is willing to publish it again, and it will be a lot easier if you write me back than if I have to call you. So I would appreciate you doing it. Everybody will be in the book. I hope to get about 250 or at least 300 of these to the book. And I am enjoying getting the answers back.

Mr. MAZZOLI. Will the gentleman yield briefly?

Mr. FREY. Yes. The gentleman from Kentucky, my good friend.

Mr. MAZZOLI. I want to commend the gentleman for his great leadership in the organization and chairmanship of the dinner, and I would like to remind the gentleman that he was almost like a drill sergeant, ferreting out information from those of us who contributed to ''Inside the House''. And I did not want to have to suffer the same kind of challenge this time, so I have here my contribution to ''Rules of the Road''. I just did not want Lou Frey on my case for the next 6 months, so here it is, Lou.

Mr. FREY. Thank you. I appreciate that. Thank you, Mr. President. I appreciate the opportunity to make the report.

Mr. BUECHNER. Thank you, Lou. And again, your invaluable leadership has made the Annual Statesmanship Award Dinner the tremendous success it has been each year.

Mr. Speaker, allow me to just briefly highlight the other activities of our Association during 2004. In December of last year the Association hosted its Life After Congress Seminar. The purpose of that conference was to ease the transition away from Capitol Hill for those sitting Members who would not return for the next Congress. We assembled a panel of Congressional support staff to outline the services available to retiring Members, as well as a panel of former Members who have pursued careers in a variety of different fields.

In addition, Dana Martin, the Chair of the Association's Auxiliary, spoke about some of the opportunities available to spouses of former Members, a very informative and worthwhile session.

The Association also organizes Study Tours for its members and their spouses who, at their own expense, have participated in education and cultural visits to places such as Australia, Canada, China, Vietnam, the former Soviet Union, Mexico and Western and Eastern Europe. In 2004, the 60th anniversary of D-Day was the occasion to bring a group of 20 former Members and spouses to France. They spent 3 days in Paris, met with the Ambassador, French legislators, French Foreign Ministry. Our colleague, Connie Morella, who serves currently as the U.S. Ambassador to the Organization for Economic Cooperation and Development, hosted a meeting.

Following that, they went to Normandy and spent several days touring D-Day sites. It was a momentous occasion to participate in a wreath-laying ceremony, and former Members were involved in the lowering of the flag of the United States as Taps was played; unbelievable experiences that will stay with them for a lifetime.

Those are just some of the other activities we have. We have an annual golf tournament at Andrews Air Force Base, and the Association's Auxiliary has other functions.

Mr. Speaker, the Association benefits tremendously from the efforts and leadership of many people. I would like to, as the president, thank the other officers of the Association, you, Jim Slattery, Jay Rhodes, Dennis Hertel and Larry LaRocco, the members of our Board of Directors and our counselors for providing excellent guidance and support through the year.

I would like to also recognize the work our staff has done. Rebecca Zylberman and Michael Taylor are two tremendous assets that we have. Sudha David-Wilp is a young woman who has taken over international programming, and I think you can just hear in what we have talked about for the study

groups, she has done a magnificent job. But especially I need to point out that Peter Weichlein, who was the head of our international programs until Linda Reed retired, and he is now Executive Director, he has done just a magnificent job on the interrelationship, both with the sitting Members of Congress, with all the study group participants and keeping our membership aware of what was going on in the world.

Mr. Speaker, we are also pleased today to have with us several representatives of former parliamentarian associations abroad. From the Canadian Association of Former Parliamentarians, we are joined by, and would you please stand when I say your name, Doug Rowland, Derrek Konrad, and Walter Van der Walle. From the Association of Former Members of the European Parliament, we are thrilled to have with us Lord Henry Plumb, James Moorhouse, Richard Balfe and Fearghas O'Beara. And from the Association of the Former Members of the Parliament of New Zealand, we are delighted to welcome Maurice McTigue. And from the Ontario Association of Former Parliamentarians, we are joined by the Reverend Canon Derwyn Shea and Mr. John Parker.

Mr. Speaker, this is the largest number of foreign dignitaries we have ever had join us. I cannot call a Canadian a foreign dignitary. I am sorry. But friends to the north, okay?

And we are truly honored that you all have made the journey to Washington so that we can continue working with each other and learning from each other.

Mr. Speaker, this is my sad part of my presentation, is to inform the House of those persons who served in Congress and have passed away since our report last year. They are, Brock Adams of Washington, Alphonzo Bell of California, Tom Bevil of Alabama, Don Brotzman of Colorado, Shirley Chisholm of New York, Tom Foglietta of Pennsylvania, Hiram Fong of Hawaii, William Ford of Michigan, Tillie Fowler of Florida, Ronald ''Bo'' Ginn of Georgia, Lamar Gudger of North Carolina, Edwin Arthur Hall of New York, Howell Heflin of Alabama, Frank Jefferson Horton of New York, Tom Kindness of Ohio, William Lehman of Florida, James Armstrong MacKay of Georgia, Robert Matsui of California, Catherine Dean May of Washington, Robert Price of Texas, Peter Rodino of New Jersey, Pierre Salinger of California and James Patrick Sutton of Tennessee.

I ask all of you, including the visitors in the gallery, would you please rise for a moment of silence as we pay our respects to the memory of these fallen elected representatives. Thank you.

Mr. Speaker, as you know, each year the Association presents a distinguished service award to an outstanding public servant and former Member of Congress. The award rotates between parties, as do our officers. Last year we presented the award to an extraordinary Democrat, Sam Nunn. This year we are pleased to be honoring a remarkable Republican, former Representative, Senator and Ambassador Dan Coats of Indiana.

Dan commenced his long service to the Nation when he joined the Army in 1966, serving until 1968. After some years in private law practice and as a district representative for then Congressman Dan Quayle, Dan Coats was elected to the House of Representatives in 1981. He served in the House until being sworn in as Senator in January 1989, where he represented Indiana until 1999.

While in Congress, Dan Coats was a member of several high profile committees, including the Armed Services Committee, the Senate Select Committee on Intelligence and the House Energy and Commerce Committee. He was also a member of the Senate leadership, serving as Midwest Regional Whip.

He continued his long and distinguished service to the country when he represented the United States as its Ambassador to Germany, from August 2001 until February 2005. As we all well know, the recent strain on U.S.-German relations required a diplomat of the highest skill set, and we applaud our former colleague for the exceptional way in which he conducted the business of the United States of America.

On behalf of the Association of Former Members of Congress, I am delighted to present our Distinguished Service Award to the Honorable Dan Coats. I am going to read what it says on the plaque: Presented by the U.S. Association of Former Members of Congress to Ambassador Daniel Ray Coats for over 20 years of commendable public service to his beloved State of Indiana and to the Nation.

Dan Coats served from 1981 to 1989 in the U.S. House, and from 1989 to 1999 as a United States Senator. As a legislator he comfortably worked with his colleagues from both sides of the aisle, especially if he could benefit America's families and children. He continued his exemplary service to country by acting as U.S. Ambassador to Germany from 2001 until 2005, representing the United States with skill and distinction during the often challenging post-September 11 period. His former colleagues applaud and recognize his distinguished career in public service, Washington, DC, May 19, 2005.

And Dan, I am also pleased to present you with a scrapbook of letters from colleagues offering their congratulations for this well-deserved symbol of our respect, appreciation and affection. We would be pleased to receive some comments from you.

Mr. COATS. President Jack and Vice President Jim, Leader Bob, and my chairman, Jim Broyhill and friends who I had the very distinct privilege of serving with in this place, it occurs to me that there are more people listening to me speak now than I ever had when I spoke in the House of Representatives or in the Senate.

It also occurs to me that, as someone who did serve in that other body, I could go on for an interminable amount of time. But I am now back in the House of Representatives, and so I am conscious of the gavel coming down behind me within a 5-minute period. So I will be very, very brief.

It is a great honor to be honored by your peers. I suspect that this had something to do with my Ambassadorship to Germany, although I cannot quite figure out why I was given this award since, under my watch, we took relations all the way back to the Spring of 1945. It was a challenging time, as Jack said. And I think that one thing I learned for sure was, given the very significant political tensions that existed between our President and the Chancellor of Germany, between our countries, the very rightful sense of disappointment, to say the least, over the lack of support from a friend that we had lent incredible amount of support, including the lives of many, many Americans to liberate that country from the scourge of Naziism. It was a difficult time for Americans to understand how that could happen.

One of the things that sustained us was, and I believe the most important thing that sustained us were the relationships that had been forged since those postwar times by the more than 13 million American troops that had served in Germany and their relationships with German townspeople and people in political office and just every day, ordinary, on the street Germans, the business ties that exist between our two countries, and just, as perhaps more importantly than any of those were the relationships that had been forged through the connections between Members and particularly former Members, the study group and others, between German parliamentarians and Germans in office and in high places. Those relationships maintained our special relationship with Germany that has existed since 1945, and saw us through all those difficult times.

The study group we were privileged to host over there, to have Members come over. We were privileged to have others come and speak to parliamentarians, to share breakfast, lunch and dinner, share thoughts, business groups exchanging, all of those sustained us through that, and I can report, on leaving there in February of 2005, relations had dramatically improved with our new Secretary of State's visit, which was an astounding success, followed by the President's visit 2 weeks later. And so we are back on the track where we should be. Still some work to do, but certainly on the uptick rather than where we were in 2002, 2003. So, for whatever I was able to contribute to that, I am appreciative of the opportunity of having, being able to serve there.

I am most appreciative of the time that I have had in this august Chamber. I walked in and saw Billy Pitts and Bob Michel, and friends who served with me during that time, and it was a real throwback and took me back to some great memories. I felt like running up to Billy and saying, how long is this going to last? When are we going to catch the plane back home?

So thank you very much for honoring me. I join a distinguished list of people that were named in receiving this honor and I am greatly honored, and will display this plaque in a very prominent place in my office and remember fondly my days here in this House of Representatives and my association with so many of you. Thank you.

Mr. BUECHNER. Again, Dan, thank you for your service and your leadership during some challenging times.

Mr. Speaker, the Members of the association were honored and proud to serve in the United States Congress. We are continuing our service to the Nation in other ways now, but hopefully, ones that are equally effective. Again, thank you for letting us return today to this Chamber that means so much to us.

This concludes our 35th annual report by the U.S. Association of former Members of Congress.

The SPEAKER pro tempore (Mr. Slattery.) The gentleman from Maryland would like to be recognized (Mr. HOYER).

Mr. HOYER. I asked my dear, dear friend of a long time, Speaker Michel, glad to have you here. You former Members, I want you to know that at one point in time I went up to RAY LAHOOD in 1995. I would particularly like my Republican friends to hear this. I went up to RAY LAHOOD, who was presiding in 1995. I went up to him and I said, look, we have got 197 Democrats, and if you could just get 20 Republicans, we will elect Bob Michel speaker. But LAHOOD could not deliver, Bob. I do not know what happened.

But I always like the opportunity to come and visit with those of you who have served so well in this Congress and provided for us such an outstanding institution in which to serve. It is a little more acrimonious than when most of you served here. Perhaps that will, at some point in time, get better. But in any event, on behalf of all of us who still serve here and who have benefited by what you have done through the years, thank you very much. And I hope that you have had a great visit back.

We see you often. I see Bob on a very regular basis, but I hope that all of you are doing well. Thank you for your assistance through the years. Thank you very much.

The SPEAKER pro tempore. Thank you, Mr. President. The Chair again wishes to thank the former Members of Congress for their presence here today. And for those of you who have not had an opportunity to record your presence with the Clerk, I would invite you to do so at this time. Good luck to all of you.

The Chair would advise that the House will reconvene at approximately 10:35.

Accordingly (at 10 o'clock and 20 minutes a.m.), the House continued in recess.

□ 1030

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BOOZMAN) at 10 o'clock and 35 minutes a.m.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. KINGSTON. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the CONGRESSIONAL RECORD and that all Members and former Members who spoke during the recess have the privilege of revising and extending their remarks.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will receive up to 10 one-minute speeches on each side.

END FILIBUSTER AGAINST PRISCILLA OWEN

(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, throughout her career, Judge Priscilla Owen has received support from across the ideological spectrum. In 2000 she was overwhelmingly reelected to a second term on the Texas Supreme Court, receiving 84 percent of the vote. Every major newspaper in Texas endorsed her for election.

Her popularity stems from her excellence on the bench and in private practice where she distinguished herself as a litigator after earning the highest score in the State on the Texas bar exam in 1977.

On May 9, 2001, Priscilla Owen was nominated to the Fifth Circuit Court. The nomination is supported by three former Democrat judges on the Texas Supreme Court, a bipartisan group of 15 past presidents of the State Bar of Texas. However, on five separate occasions in the U.S. Senate, Democrats succeeded in blocking the vote on the floor, even though she has the votes to be confirmed, because of partisanship and politics.

Today political maneuverings stand and Judge Owen's courtroom stands empty. Senate Democrats are holding qualified judges hostage to their extremist views and disrupting the constitutional process. That is wrong, unprecedented, and it should stop.

STOP THE WEAPONIZATION OF SPACE

(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, the administration, through senior Air Force officials, wants the U.S. to achieve military supremacy in outer space. Dominating all earth from outer space will have an out-of-world price tag, perhaps more than $1 trillion.

A question: Why reach for the stars with guns in our hands? Are there weapons of mass destruction on Mars?

Yesterday 28 Members of Congress signed on to H.R. 2420, a bill to stop the weaponization of space, urging the President to sign an international treaty to ban such weapons. If we work together towards creating peace on earth, we would not bring war to the high heavens.

While some fantasize about being ''masters of the universe,'' there are 45 million Americans without health insurance. Corporations are reneging on pension obligations. Social Security is under attack. We are headed towards a $400 billion annual budget deficit, a $600 billion trade deficit, an $8 trillion national debt. The cost of the war in Iraq is over $200 billion. While we build new bases in Iraq, we close them in the United States.

Earth to Washington, D.C. Earth to Washington, D.C. D.C., call home.

ENSURING A STABLE VACCINE SUPPLY

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

Mr. MURPHY. Mr. Speaker, two quick health care issues. Each year vaccinations save $52 billion in health care costs and 33,000 lives. However, the government's policy of selecting the lowest bidder, combined with a fear of lawsuits, has driven manufacturers out of the United States. This contributed to last year's flu vaccine shortage, where 30 million doses were lost due when a foreign manufacturer's supply was contaminated. The U.S. Congress needs to follow through with incentives to secure more U.S.-based vaccine manufacturers.

Secondly, today's news in the paper about Type II diabetes was disturbing. One point two million more cases appear per year, costing $132 billion. Type II diabetes is caused by poor diet and lack of exercise, and as Members of Congress we need to urge all Americans to make sure they take better care of themselves for this disease that causes stroke, heart attack, kidney failure,

and blindness. The risks are huge. The costs are huge. The benefits are great if we take better care of ourselves.

SAVERS CREDIT

(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, for millions of Americans their retirement has become less, not more, secure. Part of the problem is that we are not saving enough. Half of all Americans do not participate in employer-sponsored retirement plans, and for 28 million households they have no retirement plans outside of Social Security.

A savings crisis in America, combined with privatizing Social Security, is a recipe for disaster. As the collapse of the United Airlines pension demonstrates, Social Security is a key to retirement security for many Americans. We must preserve Social Security while we encourage Americans to save more for their retirement.

Here are four ideas: Automatic enrollment in 401(k)'s for all Americans; direct deposit of their tax refunds into their savings plans; government match for the first $2,000 they save, matching it by 50 percent; and universal 401(k)'s to simplify and consolidate the 16 different tax savings plans on the tax rolls.

Mr. Speaker, a saving crisis faces America, but we can do something about it. We should act now to encourage more Americans to save for their retirement while strengthening Social Security, not privatizing it.

NASCAR

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

Mr. HAYES. Mr. Speaker, the State of North Carolina is a proud home to a great American racing tradition: NASCAR. This weekend Lowes Motor Speedway in Concord will host the NASCAR Nextel Cup All Star Race, and folks from all across the country and around the world will come to watch the world's best drivers race for the finish.

My hometown of Concord is proud of its partnership with the racing industry and is home to many NASCAR drivers and teams. The Charlotte area has also joined together to attract the NASCAR Hall of Fame. We are excited about the possibility of this prestigious attraction calling North Carolina home.

Today I would like to take a moment to commend NASCAR, a tremendous industry and job provider in North Carolina, for its efforts to give back to the community. With its growing popularity, the sport provides entertainment for families, support for charities, and a huge economic boost for our region. I am also especially grateful for NASCAR's support of Dell TechKnow, a technology program for our schools. It is making an impact for kids in education. Even more important is NASCAR's support of our incredible military.

Tomorrow, May 20, I will join fans across the country celebrating NASCAR Day, which means support for numerous charities, our men and uniform, and jobs for Americans. NASCAR Day is an opportunity to bring fans, businesses, and community organizations across the Nation together for common cause while giving to NASCAR-related charities and making a difference in the lives of children. It supports charities such as Victory Junction Camp, Speediatrics, and Speedway Children's Charity, all meeting needs and providing support for children with chronic and life-threatening illnesses.

Mr. Speaker, I commend NASCAR, and if we ever add an extra line to the ''Star Spangled Banner,'' it will be ''Gentlemen, start your engines.''

THE JUDICIARY AND THE RULE OF LAW

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

Mr. MILLER of North Carolina. Mr. Speaker, the presidential election in 2000 was effectively decided by the Supreme Court. In his dissent, Justice Stephens said: ''It is the confidence in the men and women who administer the judicial system that is the true backbone of the rule of law . . . Although we may never know with complete certainty the identity of the winner of this year's presidential election, the identity of the loser is perfectly clear: It is the Nation's confidence in the judge as an impartial guardian of the rule of law.''

Mr. Speaker, Americans, Democrats and Republicans alike did accept the Supreme Court's decision and the legitimacy of President Bush's election. But, Mr. Speaker, what confidence will Americans have in judges nominated without consultation, without the advice and consent that the Constitution provides for, and confirmed by a bare majority despite strong objections to the impartiality of those judges, confirmed only by shamelessly ignoring the rules that have governed the Senate for more than two centuries? Mr. Speaker, why should Americans accept the decisions of those judges as legitimate? And, Mr. Speaker, just what will be left of the rule of law?

COMMENDING SENATE FOR COURAGEOUS ACTION

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

Mr. CARTER. Mr. Speaker, the Constitution of the United States designed by our Founding Fathers set up a system of establishing a judiciary. And in that establishment, they intended for the President of the United States to nominate people on the bench and they intended for the Senate to give advice and consent to that nomination and, by an up-or-down vote, vote on whether or not those people can serve for life in the United States judiciary.

□ 1045

We are seeing today a constitutional challenge that is being met by the Senate as they go forward and meet their constitutional duty for an up-or-down vote for the judiciary and the nominees that have been proposed for our Federal judiciary.

Mr. Speaker, we expect fair and impartial judges to be appointed to the court; and just because they do not meet our political litmus test, we should not allow anyone to intervene with our constitutional duty which we take an oath to preserve, protect, and defend the Constitution of the United States as we have served in these offices.

I commend the Senate for the courageous act that they will go forward and do in the following weeks.

REPUBLICAN ABUSES OF POWER

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

Ms. BERKLEY. Mr. Speaker, our Founding Fathers envisioned Congress would deliberate, collaborate, and then judiciously compromise on the key issues of the day. Here in the House, the Republican majority refuses to collaborate, deliberate, or compromise. The House leadership consistently abuses its power by preventing the minority from offering its ideas on the floor.

Fortunately, in the Senate, the Republican majority cannot force its will on the minority so easily. One of the tools of the Senate for more than 200 years is the filibuster, a rule that protects the rights of the minority and prevents the majority from having absolute power. It is a critical tool in the checks and balances that exist between the branches of government.

Today, Senate Republicans are preparing to do something that has never been done before: abolish the rights of the minority to filibuster judicial appointments.

This extreme power grab would seriously undermine our Nation's checks and balances. Like their colleagues in the House, Senate Republicans want absolute power, even though Americans know that our country works best when no political power is in absolute control.

As a Nevadan, I want to personally thank Nevada Senator HARRY REID for leading the fight in the Senate to protect and preserve the constitutional form of government that we enjoy in this country.

BAKASSI PENINSULA

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

Mr. CONAWAY. Mr. Speaker, today I would like to draw my colleagues' attention to a situation in Africa.

President Abasanjo of Nigeria promised, as a result of a lawsuit several years ago, to withdraw Nigerian troops from the Bakassi Peninsula in the Republic of Cameroon. Today he has not done this, and it is time we see some action from Nigeria.

As the president of the African Union, President Obasanjo has an obligation to set an example for the rest of the African nations by adhering to the International Court of Justice's decision and obey the rule of law.

I call on President Abasanjo to withdraw all Nigerian troops from the Bakassi Peninsula and return the Bakassi Peninsula to its rightful owner, the fine Republic of Cameroon.

DEMOCRATIC WOMEN UNITED AGAINST GOP ABUSE OF POWER

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

Ms. SOLIS. Mr. Speaker, today I rise to denounce the Republican abuse of power. Right now, the Senate Republicans are trying to jam through judicial nominations that will hurt the American people, as well as women.

Specifically, I am extremely concerned about the nomination of Janice Rogers Brown from California. Her views are out of the mainstream and out of touch with American values, and this is why: she was the only member of the California Supreme Court to find that a jury should not hear expert testimony in a domestic violence case about Battered Women Syndrome. Janice Rogers Brown was the only member of the court to oppose an effort to stop the sale of cigarettes to children. She even said that a manager could use racial slurs against his Latino employees.

Her record is clear. She does not protect the rights of workers, women, or minorities. She is so far out of the mainstream that she, in my opinion, is viewed as extreme. We cannot allow the Senate Republicans to abuse their power to jam through such extreme judicial appointments.

Our current and effective system of checks and balances protects our judicial branch. The American public must be shielded from individuals like her.

JUDICIAL NOMINEES

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

Mr. BONNER. Mr. Speaker, I rise today to voice my strong concern over the unconscionable and harmful stalling tactics we are seeing in the confirmation process over in the other body with regard to several qualified judicial nominees.

Two in particular, Justice Janice Rogers Brown, the nominee that the gentlewoman was speaking about just a minute ago, and Judge Bill Pryor, are outstanding jurists; and I am proud that they are both natives of my home State of Alabama.

Justice Brown is a native of Luverne and the daughter of a sharecropper. She has enjoyed an extremely successful career beginning on the Third District Court of Appeals in California and continuing for the past 9 years on that State's State Supreme Court. Judge Pryor, a native of Mobile, was one of our State's finest attorneys general and served with distinction during his temporary appointment on the 11th circuit of the Court of Appeals.

Both of these individuals are experts in their field, and both of them represent the finest in legal minds anywhere in this country, and they deserve a vote.

MOURNING THE LOSS OF LANCE CORPORAL JONATHAN GRANT

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

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to honor the life of Lance Corporal Jonathan Walter Grant.

Jonathan lived his life by always putting others first. Last Wednesday, he made the ultimate sacrifice while serving in Iraq.

Lance Corporal Grant was among the six Marines killed during combat in Operation Matador when their troop transporter rolled over a road-side bomb in the Al Anbar Province.

Just 23 years old, Jonathan lived life always showing courage and maturity beyond his years. He was born in the Pojoaque Valley of New Mexico and raised by his grandmother, Margie Warner, whom he loved dearly. He received his General Equivalency Diploma in the year 2000 and joined the Marines in the year 2002, working the entire time to support his family and build his future.

Our heartfelt prayers and sympathies are with Jonathan's family and friends during their time of great loss. We will always remember his bravery and the sacrifice he made while serving our great Nation.

CHINA SAFEGUARD IMPLEMENTATION

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

Ms. FOXX. Mr. Speaker, I rise today to congratulate and commend President Bush and the Committee on Implementation of Textile Agreements for recently implementing safeguards against Chinese imports of cotton shirts, cotton trousers, and cotton and man-made fiber underwear. Since the lifting of quotas by the WTO in January, shorts, trousers, and underwear, which represent more textile jobs than any other sector in America, have been under attack due to the flood of Chinese imports currently coming into our country. This fast action will save thousands of textile jobs in this country and in my district.

However, Mr. Speaker, I was disheartened to hear the comments on the safeguard sanctions made by the spokesman for the Chinese Ministry of Commerce. He said in a statement that China believes its exports of cotton knit shirts, trousers, and man-made underwear have not disrupted the U.S. market. I think a 1,573 percent increase and a 1,277 percent increase in the first 3 months of this year constitute a market disruption. Let me repeat, those numbers are for the first 3 months of the year. Think what would happen if we did not implement the China safeguards.

The Ministry of Commerce went on to say, The U.S. decision runs counter to the World Trade Organization's agreements on trade of textile and apparel products and deviates from the WTO spirit of free trade.

I took specific note of this statement because China's idea of fair trade is government subsidies of its textile and apparel exports to the United States, currency manipulation, export tax rebates, forgiveness of loans by its government banks, and direct payments to its State-owned textile and apparel industry. Fortunately, the rest of the world does not think like the Chinese.

I applaud Secretary GUTIERREZ and his panel for helping to level the playing field for our domestic textile and manufacturing.

REPUBLICAN ABUSES OF POWER

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

Mr. NADLER. Mr. Speaker, 36 years ago, Republican Senator Howard Baker took to the Senate floor during a Republican-led filibuster of Abe Fortas, President Johnson's nominee to be Chief Justice of the Supreme Court. Senator Baker justified the Republican filibuster by stating, ''On any issue the majority, at any given moment, is not always right.''

Some people might be surprised that Senate Republicans led a filibuster against a judicial nominee. After all, Senator FRIST continues to claim all judicial appointees are entitled to an up-or-down vote, no matter what. It is a disingenuous statement when he himself and other proponents of this extreme measure have used the filibuster to delay and defeat judicial nominations of the past. It is a hypocritical statement when the Republican majority in the Senate derailed and defeated 65 of President Clinton's judicial nominations without ever permitting them

a vote or even a hearing, not a vote in committee, not a vote on the floor.

And now that the Republicans are in the majority and have a President, they want to prevent Democrats from taking the very same actions they have used. They are now trying to change the rules of the Senate in the middle of the game to try to take away the rights of the minority.

Senator Baker was correct in 1968 when he said the majority was not always right, and it is time Senate Republicans realize that their extreme power grab is not in the best interests of either this Congress or this Nation.

CONGRATULATIONS TO DEBBIE PETERSON

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

Mr. PRICE of Georgia. Mr. Speaker, today I would like to congratulate Debbie Peterson from my district, a social worker at Pope High School. Last week, Habitat For Humanity named her the Southwest Regional Volunteer of the Year for Georgia, Florida, and Alabama. She is one of those special educators whose energy is contagious.

For her, Habitat For Humanity is more than building a house on the weekends. Sponsoring the Student Club is her way of giving back to the school, to the community, and to those who want a hand up and not a hand out, as Habitat's slogan states.

Throughout her 31 years in public service, Debbie Peterson has always remembered that it is about the students and their accomplishments. What have they done? Increased club membership from 25 students to 525, over one-quarter of the entire student body. Raised over $160,000 for Habitat projects to build seven homes; become one of the five largest chapters of Habitat at U.S. colleges and high schools.

At the end of this school year, she will retire from Pope High School. The lessons she has taught the thousands of students who helped provide a hand up to countless others will last a lifetime.

Congratulations Debbie Peterson.

MAKING PROGRESS IN SOCIAL SECURITY REFORM

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

Mr. KLINE. Mr. Speaker, I rise today to highlight the progress, yes, the progress we are making towards meaningful reform of an ailing Social Security system.

Because of the efforts of my colleagues and President Bush to communicate the truth of the impending Social Security shortfall, Americans are talking, and their elected representatives are listening.

I know I am only one of many Members who have been hosting listening sessions to hear the questions and concerns of my constituents on these important issues. On every one of these meetings, ideas are put forth. Many Members have translated these ideas into legislative proposals. Though the details differ, the message remains the same: we must do something to ensure Social Security will remain strong for our children and our grandchildren.

Unfortunately, not all Members are equally committed to solving the problem. Some opponents of reform have admitted that they would rather stand in the way of honest debate than be part of the solution. Mr. Speaker, this is a disservice to the constituents they represent and the millions of Americans who would benefit from reform.

I would encourage my colleagues on both sides of the aisle to be part of the solution, not part of the problem.

SUPPORT THE SAVE OUR WATERS FROM SEWAGE ACT

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

Mrs. KELLY. Mr. Speaker, I rise today to express my strong concerns about an EPA proposal that would allow local treatment plants to discharge inadequately treated sewage into our waterways. It is disappointing that the EPA would even consider a policy change that would worsen our Nation's water quality and threaten public health.

I am a cosponsor of the Save Our Waters From Sewage Act to prevent the EPA from finalizing this misguided initiative. The mere thought of routinely allowing human sewage that is only partly treated to be dumped into our local waterways is very disturbing.

The EPA's wastewater guidelines have generated understandable concerns among my constituents in Westchester, Dutchess, and Orange counties. They seriously undermine the protections in place for our water resources in the Hudson Valley. We have a responsibility to fully treat all wastewater.

We already face enough health and environmental risks in our local communities that are beyond our control. It is senseless to initiate a new policy that knowingly puts the public at greater health risk. When it comes to the safety of our water and our local citizens, it is far more important to do what is right than to do what is most convenient.

I want to thank my colleagues, the gentleman from Michigan (Mr. STUPAK) and the gentleman from Florida (Mr. SHAW), for leading the fight to protect public health and prevent the EPA from enacting this policy. I urge support for the Save Our Waters From Sewage Act.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 415

Mr. MCGOVERN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 415.

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

There was no objection.

CONDEMNING THE PRESENCE OF RACIALLY RESTRICTIVE COVENANTS IN HOUSING DOCUMENTS

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

Mr. CLEAVER. Mr. Speaker, I rise today to urge my colleagues to cosponsor H.R. 259. I recently introduced this resolution to condemn the presence of racially restrictive covenants in housing documents.

Mr. Speaker, during the early 20th century, racially restrictive covenants were used in housing documents such as plats, deeds, and homeowner association bylaws to prevent racial, ethnic, and religious minorities from renting or buying property. While they are now illegal and technically unenforceable, most were never removed from housing documents. In my district alone, one survey identified more than 1,200 documents that still contain discriminatory language.

□ 1100

In many jurisdictions, the process of removing racially restrictive covenants is administratively burdensome, time consuming and costly. This resolution urges States to adopt legislation similar to California and commends the Missouri State Senate for passing a bill that streamlines the process for removing these relics of the Jim Crow era.

Mr. Speaker, I urge my colleagues to cosponsor H.R. 259 and join me in condemning racially restrictive covenants.

PROVIDING FOR CONSIDERATION OF H.R. 2361, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. BISHOP of Utah. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 287 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 287

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. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, 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 Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except as follows: beginning with the colon on page 46, line 3, through ''account'' on line 14; section 109; page 67, line 17 through the semicolon on page 67, line 22; beginning with ''That'' on page 68, line 23, through ''and'' on page 69, line 3; beginning with ''That'' on page 69, line 19, through the comma on line 22; page 73, line 14 through line 22; section 413; beginning with ''notwithstanding'' on page 121, line 11, through the comma on line 12; beginning with ''notwithstanding'' on page 121, line 22, through ''laws'' on line 23; beginning with ''Notwithstanding'' on page 124, line 6, through line 7; and page 124, line 15 through 25. Where points of order are waived against part of a paragraph or section, points of order against a provision in another part of such paragraph or section may be made only against such provision and not against the entire paragraph or section. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. When the committee rises and reports the bill back to the House with a recommendation that the bill do pass, 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.

The SPEAKER pro tempore. The gentleman from Utah (Mr. BISHOP) is recognized for 1 hour.

Mr. BISHOP of Utah. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), 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.

This resolution provides for an open rule on H.R. 2361, the Interior Appropriations Act for fiscal year 2006, and provides for 1 hour of general debate equally divided and controlled by the chairman and ranking member of the Committee on Appropriations.

For the purpose of amendments, this rule provides for priority recognition to Members who preprinted their amendments in the CONGRESSIONAL RECORD, and the rule also allows for certain points of order to be raised in the course of consideration of this bill.

Mr. Speaker, this bill deals with filibusters in the U.S. Senate. Actually, Mr. Speaker, it does not, but until you say that magic word the media does not send its attention to the fact that the House is actually continuing on with the input of good government in our processes, so this bill actually, for which I am pleased to stand before the House and support the rule on the underlying legislation, is the Interior Appropriations Act.

I appreciate the hard work and the hard choices that the subcommittee chairman, the gentleman from North Carolina (Mr. TAYLOR), the gentleman from California (Chairman LEWIS), the gentleman from Washington (Mr. DICKS), and many others have put into making and putting this essential funding bill together, which does live within the budget discipline, and in fact reflects the priorities of this Congress.

At the same time, it reflects important committee priorities within the budget itself. We realize that this Congress, this Nation, does not have the money to do everything. But what we decide to do we should do well.

By prioritizing the needs, this provides, for example, an increase in six of the eight EPA programs for the environment. It provides for a $118 million increase for Indian health services, a $25 million increase over last year's funding level for restoration of the Everglades.

These are simply examples. A few others. Provides for National Heritage Area grants and historic preservation, something that to an old history teacher I appreciate. This bill provides important resources to help manage our Nation's public forest resources and our national parks.

It includes, for example, a $70 million increase for the national parks base funding, but at the same time $440 million to help reduce the backlog of national park maintenance. That is how these bills and these monies should be prioritized, to help preserve and enhance these unique national treasures.

It also provides for a record amount of funding to the national fire plan, and gives the Department flexibility in these accounts to help prevent and fight the annual onslaught of raging fires on public lands in the West, which have plagued many areas, especially California in recent years.

I am also pleased in particular that the gentleman from North Carolina (Chairman TAYLOR) has been diligent in funding the vital Payment in Lieu of Tax Program, or PILT, which so many western and rural counties depend upon for these vital public services.

Since this is an open rule, any Member will be allowed to offer germane amendments. This is a good rule. I think it supports a good bill. I strongly urge their adoption.

With that, Mr. Speaker, I urge adoption of the rule.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I might consume. I thank the gentleman from Utah (Mr. BISHOP) for the time.

Mr. Speaker, I rise today in opposition to this rule, not because of what it allows but rather because of what it does not allow. As my colleague from the majority noted, this rule permits Members to offer amendments to the Interior and Environment Appropriations bill under the House's 5-minute rule if they do not need waivers of the House rules.

As someone who will be offering an amendment to that bill later today, I appreciate that the majority structured the rule in such a manner. However, I am greatly concerned that the rule blocks the ranking Democrat of the Appropriations Committee, my friend the gentleman from Wisconsin (Mr. OBEY), from offering a critical amendment which would have added $500 million to the bill to fully restore EPA's State and Tribal Grant Program, and Clean Water State Revolving Fund to their fiscal 2004 levels.

These two programs allow communities around the country to repair and modernize their water systems, and the underlying legislation greatly underfunds each account.

For the fiscally conservative in the House, the amendment of the gentleman from Wisconsin (Mr. OBEY) was revenue neutral, paying for itself by capping the tax cut for millionaires at just over $138,000. The amendment of the gentleman from Wisconsin (Mr. OBEY) could have benefited literally millions of Americans by making their drinking water cleaner. But the Rules Committee, on a straight party line vote, prohibited the House from considering the gentleman's amendment.

Mr. Speaker, we live in trying times with enormous fiscal constraints, many of which have been brought upon ourselves. As the chairman and ranking Democrat of the Interior and Environmental Appropriations Subcommittee will probably note today, they did the best that they could with what they were given.

Indeed they did. Mr. Speaker, I commend the gentleman from North Carolina (Chairman TAYLOR) and the gentleman from Washington (Mr. DICKS) for their hard and perhaps most importantly bipartisan work on this legislation. I do believe that they did the best with what the majority gave them.

The underlying legislation includes funding which is essential to Everglades restoration, in my district and throughout South Florida. The bill maintains funding for the National Endowment of the Arts at its current level, and it increases funding for the National Endowment for the Humanities by a little less than $500,000.

The bill also increases funding for operations at our national parks, as well as a $67 million much-needed increase in funding for the Bureau of Indian Affairs.

Despite these increases the underlying legislation makes major cuts in funding to some of our most important environmental and health programs. $240 million has been cut from the Clean Water State Revolving Fund. $110 million from the State and Tribal Assistance Grant Account.

Conservation funding is about $750 million below, or less than half of what was promised when Congress passed the Conservation and Restoration Act in 2000. Overall, EPA's budget has been cut by $300 million.

This is only the second of 13 appropriations measures which this body will consider over the next few months. It is also the second appropriations bill in which we can see the drastic and dramatic effects of the Bush tax cuts. Republicans are going to try and associate domestic funding cuts with the cost of the war in Iraq. It seems like a plausible reason, and certainly one that the public could believe. But the truth is that domestic spending cuts are not occurring to pay for the war, they are happening to pay for the President's tax cuts.

The Republican budget that Congress approved 2 weeks ago only set aside $50 billion for Iraq and Afghanistan combined. The remaining costs, probably another $50 billion or more, if this year is any indication, will be funded by Congress through so-called emergency supplemental appropriations. These emergency costs will be added to the national debt, because we irresponsibly did not budget for it though we knew they were obvious. What has ensued is not the fault of the Appropriations Committee, Mr. Speaker, it is the fault of those who supported the budget resolution.

Later today, some Members will seek to improve the funding shortfalls, which the chairman and ranking Democrat sought to avoid.

For example, the gentleman from Arizona (Mr. GRIJALVA) will offer an amendment that restores the President's 33 percent cut for environmental justice programs to the fiscal year 2005 level.

The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) will also offer an amendment that will increase funding for the cleanup of brownfields sites by $2 million.

Additionally, I will offer an amendment that will require EPA to identify and take the necessary steps to protect minority and low income communities from bearing a disproportionate burden of poor environmental policy which adversely affects their health and well being.

All communities currently do not share in the burden of health and environmental risks, and my amendment expresses Congress' support for EPA doing what is necessary to protect these communities.

Mr. Speaker, individuals in our country on their own are not going to force power companies to reduce mercury emissions from smokestacks. Individuals on their own are not going to conduct major environmental restoration, and they certainly do not have the capacity to clean up our drinking water. But collectively, collectively, Mr. Speaker, we can all make this happen.

When utilizing the Clean Air Act, EPA can force power plants to come into compliance with new standard reviews. When enforcing the Clean Drinking Water Act, EPA can require cities and counties to provide their residents with safe drinking water.

□ 1115

With innovation that can only occur in a consortium of stakeholders, the Department of the Interior can make major environmental restoration projects a reality.

Enforcement is not free and neither is environmental restoration. Everyone in America shares in the responsibility of contributing his or her own fair share. Is there any Member in this body who is unwilling to pay just a little more to ensure that everyone in America has clean air to breathe? If given the chance, who would not be willing to pool his or her resources with others in his or her neighborhood to collectively ensure that everyone, everyone, has safe drinking water, or that no child will be forced to grow up playing in backyards polluted by dangerous levels of mercury and other toxins.

I do not blame or fault the appropriators for the funding cuts in the underlying legislation; but I do fault the majority in this body for creating a situation in which failure to adequately fund America's needs has become imminent. The American people will feel the same way when they wake up tomorrow and realize that their children and grandchildren will be paying for our fiscal mismanagement for generations to come.

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

Mr. BISHOP of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again with this particular rule being open, it allows any Member who wishes to, to bring an amendment to the floor. It is the wonderful prerogative of the Members to do that. It is also very nice to note that the Committee on Appropriations which is tasked with trying to prioritize needs and fund those that are truly significant in that prioritization, and in this particular situation, the gentleman from North Carolina (Chairman TAYLOR) and the gentleman from Washington (Mr. DICKS) in a very collegial way have done just that, and have presented a good and balanced bill.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. MCGOVERN) with whom I serve on the Committee on Rules.

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

Mr. Speaker, I rise today in opposition to the rule and in strong opposition to what I consider a very bad bill. This Department of the Interior appropriations bill as written is a direct assault against our Nation's environment, and it should be defeated.

I am particularly outraged that the bill completely zeros out the stateside grant program of the Land and Water Conservation Fund, a program that has been an enormous help to our local communities and the families who live in them.

The stateside Land and Water Conservation Fund has helped to preserve open space, slow urban sprawl, and give our children safe places to play. It is a true partnership with Federal grants requiring a full match from States and local communities. It is a program that has worked, and it has worked well. But this Republican bill completely eliminates the program. It zeros it out, walks away from our local communities.

The Land and Water Conservation Fund, LWCF, is based upon a simple concept: it takes revenues from offshore oil and gas drilling and invests them in our Nation's public land, letting States take the lead. For 40 years this program has a proven track record and benefited from strong bipartisan support.

When Congress decided to open the outercontinental shelf to oil drilling, we pledged to use some of its revenues for the public good. With the goal of meeting the Nation's growing need for recreation sites, Congress established the LWCF trust fund and agreed to reinvest an annual portion of OCS revenue into Federal land acquisition and State-assistance development programs.

Now even though LWCF takes in $900 million annually from oil and gas receipts, in recent years just a fraction of this funding has been used for its rightful purpose. And today, the Republican leadership has taken their pillaging a step further by completely eliminating the stateside program and using the money for something else.

This bill breaks our promise to the American people by not spending this funding the way we are supposed to. In all, the stateside program has helped communities by funding 40,000 projects nationally, success stories that can be found in every State and in 98 percent of U.S. counties.

I urge my colleagues to ask their Governors and their mayors and county commissioners if they want the stateside program to be eliminated. If the answer is no, vote against this bill.

This cut is particularly harmful to our Nation's underserved areas. In fact, in many low-income urban communities, the stateside grant program is responsible for virtually all parks.

This is about priorities, Mr. Speaker. This bill demonstrates that for the Republican leadership, tax breaks for the wealthy few are more precious than open space. For this leadership, millionaires are more important than kids who need a safe place to play. And for this leadership, lobbyists win and families lose.

We will hear the rhetoric from the other side claiming they did the best they could with what they had. They will complain that the allocation given to the subcommittee just was not big enough. They should save their crocodile tears because those same Members voted for the budget that created those

allocations. They created this mess, and now the families of this country are paying the price. I urge my colleagues to vote against this rule and reject this bad bill.

Mr. BISHOP of Utah. Mr. Speaker, I yield myself such time as I may consume.

I appreciate the comments from the gentleman from Massachusetts (Mr. MCGOVERN), and I commend the gentleman for the one statement he asked us all to do which is to go to our State and local leaders and find out what their priorities happen to be.

I would like to do something unique so far in today's debate and talk about something that is actually in the bill, and something about which we will be debating later, and preface it with the comment of why, when we try to prioritize, should we spend new taxpayer money for new recreation areas and programs when some of the existing programs, long-time recognized, long time in the bill, are not totally and fully funded.

If I could, Mr. Speaker, I come from a western State that has a great deal of Federal land. In fact, 67 percent of my State is owned by the Federal Government. If we add military lands on top of that, it is almost 80 percent owned by the Federal Government. And, unfortunately, my State is not the worst situation. There are States that have more of their land owned by the Federal Government.

Oftentimes I have Members come to the floor and say these lands belong to all of us, but the cost of maintaining those lands is not borne by all of us; it is borne by the citizens who happen to reside within those particular States.

Now I am an old teacher, and as I look at the situation of education, I find a unique phenomenon that the area of this country in which education funding is growing the slowest, the area of this country where the classrooms are the largest, the area of this country where the student population is increasing the fastest, and the area of this country where State and local commitment in tax base is being paid by their citizens all happen to be found in the 13 States of the West. And the common denominator for all is the amount of public lands that happen to be in these particular States.

Those Members east of the Rocky Mountains sometimes do not comprehend the concept because there is very little of your land owned by the Federal Government, and you can maximize the amount of input, but you cannot do it in the West.

One of my counties has an area known as the Black Box, something that no one in Utah would ever try to raft down. One of our good constituent friends from another State decided to come and raft in the area of the Black Box; and, unfortunately, he lost his life doing it.

The problem is my County of Emery had to expend its resources and have their rescue team risk their lives to retrieve the body. All of the money that was budgeted for that year's critical rescue missions was expended on that one individual entering from the east using all of these public lands. All of the cost of that was borne by the citizens of that particular county, which means once again these lands belong to all of us, but the expense attached to these lands do not belong to all of us.

There is a program that we have long had called ''payment in lieu of taxes,'' which recognizes the burden placed upon the West and the burden that should be funded. From the mid-1970s until the early 1990s, virtually no new money was placed in this program. It was flat funding for almost that whole period of time. This Congress put $1.4 million of new money into the burgeoning problem of trying to pay for the Federal lands in the West. Under the direction of the gentleman from North Carolina (Chairman TAYLOR) and others on the subcommittee, that has increased significantly, almost doubling. They have recognized the need, but they have never fully funded the cost imposed on western States through payment in lieu of tax funding.

This last year, this program, traditionally run through the Bureau of Land Management, was taken over by the Department of the Interior with the idea of prioritizing it. They did not. Instead of prioritizing this program, they recommended a cut in this program and increased funding to the administrative overhead of the Department of the Interior.

I commend the gentleman from North Carolina (Chairman TAYLOR) for recognizing the unfairness of this and by increasing the payment in lieu of taxes to last year's level plus $3 million, but it is still not close to full funding.

I am confident and hopeful that we will discuss that particular issue because it is a well-established program. It is not new, and we should be funding those well-established programs fully before we launch into new endeavors.

I commend the gentleman from North Carolina (Chairman TAYLOR) for zeroing out the land acquisition budget except for necessary administration costs because it comes up with the same policy: we do not start buying new land until we fully fund those lands that we already own.

We have an opportunity of expanding this in conference. This is one of the issues in this free-flowing open rule that we will be discussing later on. This is an issue where I commend the chairman for doing what he has done in this bill and urge him to continue on, because the citizens of the West, the kids in the West, the education system of the West have been harmed too long by policies that all of us in Congress for over 30 years have been implementing. It is an unfairness that must be dealt with.

I commend the gentleman from North Carolina (Chairman TAYLOR) and the committee for moving the first step forward. But I hope that we can look at other amendments as this debate goes forward that would look at funding the programs we already have that have been there for many years that desperately need to be fully funded before we launch into others, and that is specifically what an appropriations process should do. It should prioritize our needs. Once again, we can go back to the concept that we cannot fund everything, but what we fund, we should fund well.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am a bit confuzzled by the continuing argument of my colleague and friend on the Committee on Rules that his State is impacted by virtue of education formulas. I do not disagree with what the gentleman says, but I find it interesting that the State of Utah, while the gentleman from Utah (Mr. BISHOP) is arguing that they are not getting enough money for education, the State of Utah legislature passed measures saying they do not want any Federal money for education. They need to make up their mind so we know what all they are doing out there.

Mr. Speaker, I yield 7 minutes to the gentleman from Wisconsin (Mr. OBEY), ranking member of the Committee on Appropriations.

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

Mr. Speaker, I will be voting against the previous question on the rule, and after the bill is considered, unless it is substantially changed, I will be intending to vote against the bill itself for a variety of reasons.

My main reason is this bill represents gross negligence of our responsibility to clean up the Nation's air and water pollution. This bill provides huge cuts, 40 percent cuts over a 2-year period in the clean water revolving fund. If there is any Member of this Chamber who has a district that does not have a community that needs more loans to fix their sewer and water problems, would you please raise your hand. I would like to see one Member who thinks that they have enough money.

I note no Member of the House present has raised his hand.

□ 1130

Mr. Speaker, I would say there is a great deal of hypocrisy surrounding the budget process. Every time that those of us on this side of the aisle point to the shortcomings in the budget that the Republican majority has just passed, we hear, ''Well, we can't do anything about these shortages in the appropriation bills because, after all, we have limited resources.''

The gentleman who just spoke, the gentleman from Utah, said the appropriations process, quote, ''should prioritize our needs.'' I fully agree.

That is what I wanted to be able to try to do by offering an amendment which this rule would preclude me from offering. Because what I wanted to do is to change the judgment, change the priority judgment that the majority party made when they decided it was more important to give a $140,000 tax cut to someone who makes a million bucks this year, they decided that was more important, that was a higher priority, than cleaning up our air or cleaning up our water. I do not think that represents the priority choice that the American people would make but it is the priority choice that the majority party has made.

The only way that we can change that priority judgment is by offering the amendment that I wanted to offer, which would have scaled back the size of those tax cuts for anybody making a million dollars a year or more. It would have scaled back those average tax cuts from $140,000 to $138,000. Imagine those poor souls having to get by with a tax cut of only $138,000. I remind you, those are people who make more than a million dollars.

I do not begrudge, I do not denigrate in any way people who have managed to strike it rich and who are managing to make a million dollars a year. I hope everybody in this country at some point in their lives can do that. But I do believe that people who are the most blessed in our society ought to pay their fair share and the budget resolution which was imposed on this committee by this House does not allow us to reach that kind of fair distribution of tax burden.

So if we object to that what I regard to be not just ill-advised but immoral allocation of resources, the only device that we have to try to change that is to try to make our point on each of these appropriation bills trying to get the majority party to understand that just as they reconsidered their unilateral actions on Ethics Committee changes a couple of weeks ago, we would also like them to reconsider their poor judgment on the budget resolution.

Because the Rules Committee would not allow that amendment, I am going to vote against the previous question, and I am going to vote against the bill because the bill is grossly negligent in dealing with the air and water pollution problems facing this country. I am also not at all thrilled by the fact that for the first time in all the years I have been in Congress there will not be a single dollar provided for land acquisition programs. The gentleman may not want it in his State, but there are key tracts of land that we want the government to acquire in my State, there are key tracts of land we want the government to acquire, for instance, at George Washington's birthplace before real estate developers destroy that beauty for all time.

I am an old real estate broker, so I have nothing against real estate developers but I do not think they ought to be able to get their gloms on the most pristine land in this country and turn it into a shopping mall when we have our population increase by one-third since I came to this body and when we have an increased need for resources that the average family can enjoy.

But most of all the biggest problem with this bill is that it walks away from our obligation to help State and local governments clean up some of the dirtiest rivers and dirtiest lakes in the country. It walks away from our responsibility to prevent communities like Milwaukee from dumping their surplus sewage into Lake Michigan every time there is a storm. That is an outrageous neglect of our stewardship responsibilities. I think this bill makes it even easier to ignore those responsibilities, and I think that is a disgraceful act.

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

I will be asking Members to oppose the previous question. If the previous question is defeated, I will amend the rule so we can consider the amendment of the gentleman from Wisconsin (Mr. OBEY) that was rejected in the Rules Committee last night on a straight party-line vote.

Mr. Speaker, the Obey amendment would add $500 million to the bill to restore funding for the EPA Clean Water State Revolving Fund Program to its fiscal year 2004 levels. This program allows communities around the country to repair and modernize their water systems. I find it incomprehensible that we do not understand the dynamics of that or that most if not all of us in this body do not have communities that would benefit from modernizing our water systems. The Obey amendment offsets these expenditures by capping at just over $138,000 the tax cut for people making over $1 million this year. The Obey amendment pays for itself and adds nothing to the Federal debt while maintaining funding levels in every other program in the bill.

This amendment will correct one of the most serious shortfalls in this bill. It is absolutely critical that this funding be restored. We can fix this today if we allow the Obey amendment to be considered on the floor. But the only way that will happen is if we defeat the previous question.

I want to assure my colleagues that a ''no'' vote will not prevent us from considering the Interior Appropriations bill, but a ''no'' vote will allow Members to vote on the Obey amendment. However, a ''yes'' vote will block consideration of the Obey amendment.

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

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

There was no objection.

Mr. HASTINGS of Florida. I urge my colleagues in the House to vote ''no'' on the previous question.

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

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

I appreciate the opportunity coming here and discussing this particular open rule that allows for us to discuss the prioritization which is the key element of what we do in every appropriations issue. The gentleman from Wisconsin is free to come here on the floor and talk about whether he believes the prioritization of this committee is accurate or not, whether he believes the Democrat approach would be a tax increase or not. But the same discussion also takes place in another area and it takes place in the committee process before it ever comes to this bill. I am here to still contend that the committee, both Republican and Democrat, did a good job in coming up with a prioritization process.

When the gentleman from Wisconsin talks about the desire for having new land, I do not dispute that nor do I oppose it necessarily. What we are saying is it is part of the prioritization. I would support acquisition of new land once we finally fully fund and take care of the lands we have. This committee has looked into that. This committee put significant new money not just into national parks but to maintain the backlog that we have of maintenance in our national parks. That is prioritization.

This committee recognized by putting PILT up to at least the level it was last year that there is a prioritization that takes place there at the same time. I was saying with PILT, and I will say it again, that what we have to do is fully fund it because it has been looked at for too long, especially when the minority party was in charge here and there were basically no increases in PILT funding, it has been looked at for too long as welfare for the West. It is not. It is rent that is due on that land and if you prioritize the budget, you prioritize those programs first before you expand anything else. I have to commend this committee for actually doing that.

I think there are some areas in which I think they could go ahead and move forward in those particular areas but once again prioritizing those commitments we have already made and fully funding those first. That is what this committee has tried to do. Whether you like or dislike their end product, they should be congratulated for coming that close.

In closing, Mr. Speaker, I have to reiterate the fairness of this open rule and urge its adoption because of that along with the underlying appropriation legislation. No bill is perfect. I am sure we can all come up with issues here and there in the appropriations bill or, for that matter, in any other bill we have where we would like to have it come out differently had we had our way, but in judging this bill as a whole and the process that has been through it to get to the point, I believe it is worthy for Members to support this particular piece of legislation.

And then I do want to talk to my good friend from Florida about what we really did with education in Utah. He is summarizing the New York Times, not reality. But other than that, we will forget that point right now. I will talk later to him about that.

Again, I urge Members to support this rule.

The text of the amendment previously referred to by Mr. HASTINGS of Florida is as follows:

PREVIOUS QUESTION ON H. RES. 287—RULE FOR H.R 2361 FY06 INTERIOR APPROPRIATIONS

At the end of the resolution, add the following new sections:

SEC. 2. Notwithstanding any other provision of this resolution, the amendment printed in section 3 shall be in order without intervention of any point of order and before any other amendment if ofered by Representative OBEY of Wisconsin or a designee. The amendment is not subject to amendment except for pro forma amendments or to a demand for a division of the question in the committee of the whole or in the House.

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

AMENDMENT TO H.R. 2361, AS REPORTED OFFERED BY MR. OBEY OF WISCONSIN

At the end of the bill (before the short title), insert the following:

SEC. ____. (a) The amount otherwise provided in this Act for ''Environmental Protection Agency—State and Tribal Assistance Grants'' (and the amount specified under such heading for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act) is hereby increased by $500,000,000.

(b) In the case of taxpayers with adjusted gross income in excess of $1,000,000 for calendar year 2006, the amount of tax reduction resulting from enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. 107–16) and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Pub. L. 108–27) shall be reduced by 1.562 percent.

Mr. BISHOP of Utah. 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 the ordering the previous question.

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

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

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

The Sergeant at Arms will notify absent Members.

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 215, nays 194, not voting 24, as follows:

[Roll No. 190]

YEAS—215

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
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burton (IN)
Buyer
Calvert
Camp
Cannon
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
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
Jones (NC)
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
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
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sweeney
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
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
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
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)
Moran (VA)
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
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—24

Boustany
Burgess
Cantor
Fattah
Gingrey
Harman
Jackson-Lee (TX)
Keller
Larson (CT)
Lewis (GA)
Lucas
Matsui
Millender-McDonald
Ney
Ryan (WI)
Shays
Simpson
Strickland
Sullivan
Tancredo
Tiahrt
Udall (CO)
Weldon (FL)
Weldon (PA)

□ 1209

Mr. SESSIONS, Mrs. MUSGRAVE, and Mr. BRADLEY of New Hampshire changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Mr. NEY. Mr. Speaker, on May 19, 2005, I was unable to be present for rollcall vote No. 190, on ordering the Previous Question to provide for consideration of H.R. 2361, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 39, 2006 and for other purposes. Had I been present I would have voted ''yea'' on rollcall vote No. 190.

Mr. BOUSTANY. Mr. Speaker, on rollcall No. 190 I was inadvertently detained. Had I been present, I would have voted ''yea.''

Mr. RYAN of Wisconsin. Mr. Speaker, on rollcall No. 190 I was traveling with the President in Wisconsin. Had I been present, I would have voted ''yea.''

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

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENTS TO H.R. 1851, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

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

Mr. COLE of Oklahoma. Mr. Speaker, the Committee on Rules may meet the week of May 23rd to grant a rule which could limit the amendment process for floor consideration of H.R. 1815, the National Defense Authorization Act for Fiscal Year 2006. The Committee on Armed Services ordered the bill reported late last night and is expected to file its report in the House tomorrow, May 20.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy with a brief explanation of the amendment to the Committee on Rules in room H–312 of the Capitol by 10 a.m. on Tuesday, May 24.

Members should draft their amendments to the text of the bill as reported by the Committee on Armed Services which should be available tomorrow for their review on the Web site of both the Committee on Armed Services and the Committee on Rules.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain their amendments comply with the Rules of the House.

GENERAL LEAVE

Mr. TAYLOR of North Carolina. 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. 2361.

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

There was no objection.

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. Pursuant to House Resolution 287 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. 2361.

The Chair designates the gentleman from Ohio (Mr. LATOURETTE) as chairman of the Committee of the Whole, and requests the gentlewoman from West Virginia (Mrs. CAPITO assume the chair temporarily).

□ 1213

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. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, with Mrs. CAPITO (Acting Chairman) in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Washington (Mr. DICKS) each will control 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, today we present for consideration by the House the Interior, Environment and Related Agencies fiscal year 2006 Appropriations bill as approved by the House Committee on Appropriations.

The bill provides a total of $26.2 billion in funding for programs for the Department of the Interior, Environmental Protection Agency, Forest Service, Indian Health Service, the Smithsonian Institution, and several other environmental and cultural agencies and commissions.

□ 1215

The bill is $823 million below the fiscal year 2005 level, and $435 million above the administration budget request.

This is a balanced, bipartisan bill. It provides significant increases for our national parks, Indian schools, hospitals and clinics, wildfire programs; forest health is a high priority, and the Healthy Forest Initiative is fully funded.

The Payments in Lieu of Taxes program has a healthy increase of $30 million above the budget request, and more than $3 million above the 2005 level. Despite our very tight allocation, the Committee believes it is important to provide this increased funding for PILT.

There is an increase of $64 million for operations of our National Park System, including a $30 million increase specifically designed for individual units of the National Park Service. This targeted park base increase will benefit all of our parks.

The bill also restores critical funding for science programs, historic preservation programs, National Forest Systems programs, and Save America's Treasures grants. Finally, we have restored critical environmental education, research and rural water programs in the Environmental Protection Agency, and provided some limited increases for initiatives proposed in the budget request, including Superfund, homeland security, school bus retrofits, the Clean Diesel Program, Methane to Markets Initiative, and the Brownfields Program.

The budget request for EPA, while substantially below last year's level and proposed increases in that budget request, were funded by elimination of many critical mission essential programs.

We heard from nearly every Member of the House asking that we provide funding for EPA programs that were eliminated or reduced in the budget. The program restoration and increases for the various programs and agencies in this bill are offset by the decreases in land acquisition, construction, and State grant programs, and by lowering the amount provided for the increases proposed in the budget request.

This is a balanced bill. It is within the 302(b) allocation for budget authority and outlays. It provides the needed funding to keep the agencies in the bill operating at a reasonable level.

It does not provide a lot of funding for new initiatives. The choices made by the Committee were tough and fair and responsible. I urge all of my colleagues to support the bill.

At this point, I would like to ask that a table detailing the accounts in the bill be inserted in the RECORD.

DEPARTMENT OF THE INTERIOR ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS BILL FY 2006 (H.R. 2361)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I - DEPARTMENT OF THE INTERIOR					
Bureau of Land Management					
Management of lands and resources	836,826	850,177	845,783	+8,957	-4,394
Wildland fire management:					
Preparedness	258,939	286,701	272,852	+13,913	-13,849
Fire suppression operations	218,445	234,167	234,167	+15,722	---
Additional appropriations (Title IV)	98,611	---	---	-98,611	---
Other operations	255,300	235,696	254,545	-755	+18,849
Subtotal	831,295	756,564	761,564	-69,731	+5,000
Central hazardous materials fund	9,855	---	---	-9,855	---
Rescission of balances	-13,500	---	---	+13,500	---
Construction	11,340	6,476	11,476	+136	+5,000
Land acquisition	11,192	13,350	3,817	-7,375	-9,533
Oregon and California grant lands	107,497	110,070	110,070	+2,573	---
Range improvements (indefinite)	10,000	10,000	10,000	---	---
Service charges, deposits, & forfeitures (indefinite)	20,055	32,940	32,940	+12,885	---
Offsetting fee collections	-20,055	-32,940	-32,940	-12,885	---
Miscellaneous trust funds (indefinite)	12,405	12,405	12,405	---	---
Total, Bureau of Land Management	1,816,910	1,759,042	1,755,115	-61,795	-3,927
United States Fish and Wildlife Service					
Resource management	962,940	985,563	1,005,225	+42,285	+19,662
Construction	52,658	19,676	41,206	-11,452	+21,530
Emergency appropriations (P.L. 108-324)	40,552	---	---	-40,552	---
Land acquisition	37,005	40,992	14,937	-22,068	-26,055
Landowner incentive program	21,694	40,000	23,700	+2,006	-16,300
Private stewardship grants	6,903	10,000	7,386	+483	-2,614
Cooperative endangered species conservation fund	80,462	80,000	84,400	+3,938	+4,400
National wildlife refuge fund	14,214	14,414	14,414	+200	---
North American wetlands conservation fund	37,472	49,949	40,000	+2,528	-9,949
Neotropical migratory birds conservation fund	3,944	---	4,000	+56	+4,000
Multinational species conservation fund	5,719	8,300	5,900	+181	-2,400
State wildlife grants	69,028	74,000	65,000	-4,028	-9,000
Total, United States Fish and Wildlife Service	1,332,591	1,322,894	1,306,168	-26,423	-16,726
National Park Service					
Operation of the national park system	1,683,564	1,734,053	1,754,199	+70,635	+20,146
United States Park Police	80,076	80,411	82,411	+2,335	+2,000
National recreation and preservation	60,973	36,777	48,997	-11,976	+12,220
Historic preservation fund	71,739	66,205	72,705	+966	+6,500
Construction	302,180	307,362	291,230	-10,950	-16,132
Emergency appropriations (P.L. 108-324)	50,802	---	---	-50,802	---
Land and water conservation fund (rescission of contract authority)	-30,000	-30,000	-30,000	---	---
Land acquisition and state assistance	146,349	54,467	9,421	-136,928	-45,046
Total, National Park Service (net)	2,365,683	2,249,275	2,228,963	-136,720	-20,312
United States Geological Survey					
Surveys, investigations, and research	935,464	933,515	974,586	+39,122	+41,071
Emergency appropriations (P.L. 108-324)	1,000	---	---	-1,000	---
Minerals Management Service					
Royalty and offshore minerals management	270,550	283,146	275,406	+4,856	-7,740
Use of receipts	-103,730	-122,730	-122,730	-19,000	---
Oil spill research	7,006	7,006	7,006	---	---
Total, Minerals Management Service	173,826	167,422	159,682	-14,144	-7,740

DEPARTMENT OF THE INTERIOR ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS BILL FY 2006 (H.R. 2361)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Office of Surface Mining Reclamation and Enforcement					
Regulation and technology	108,269	110,435	110,435	+2,166	---
Receipts from performance bond forfeitures (indefinite)	99	100	100	+1	---
Subtotal	108,368	110,535	110,535	+2,167	---
Abandoned mine reclamation fund (definite, trust fund)	188,205	188,014	188,014	-191	---
Legislative proposal	---	58,000	---	---	-58,000
Subtotal	188,205	246,014	188,014	-191	-58,000
Total, Office of Surface Mining Reclamation and Enforcement	296,573	356,549	298,549	+1,976	-58,000
Bureau of Indian Affairs					
Operation of Indian programs	1,926,091	1,924,230	1,992,737	+66,646	+68,507
Construction	319,129	232,137	284,137	-34,992	+52,000
Indian land and water claim settlements and miscellaneous payments to Indians	44,150	24,754	34,754	-9,396	+10,000
Indian guaranteed loan program account	6,332	6,348	6,348	+16	---
Total, Bureau of Indian Affairs	2,295,702	2,187,469	2,317,976	+22,274	+130,507
Departmental Offices					
Insular Affairs:					
Assistance to Territories	47,861	46,543	48,843	+982	+2,300
Northern Marianas	27,720	27,720	27,720	---	---
Subtotal	75,581	74,263	76,563	+982	+2,300
Compact of Free Association	3,450	2,862	3,362	-88	+500
Mandatory payments	2,000	2,000	2,000	---	---
Subtotal	5,450	4,862	5,362	-88	+500
Total, Insular Affairs	81,031	79,125	81,925	+894	+2,800
Departmental management	95,821	120,155	118,755	+22,934	-1,400
Subtotal, Departmental management	95,821	120,155	118,755	+22,934	-1,400
Payments in lieu of taxes	226,805	200,000	230,000	+3,195	+30,000
Central hazardous materials fund	---	9,855	9,855	+9,855	---
Office of the Solicitor	51,656	55,752	55,340	+3,684	-412
Office of Inspector General	37,275	40,999	39,566	+2,291	-1,433
Office of Special Trustee for American Indians					
Federal trust programs	193,540	269,397	191,593	-1,947	-77,804
Indian land consolidation	34,514	34,514	34,514	---	---
Total, Office of Special Trustee for American Indians	228,054	303,911	226,107	-1,947	-77,804
Natural resource damage assessment fund	5,737	6,106	6,106	+369	---
Total, Departmental Offices	726,379	815,903	767,654	+41,275	-48,249
Total, title I, Department of the Interior:					
New budget (obligational) authority (net)	9,944,128	9,792,069	9,808,693	-135,435	+16,624
Appropriations	(9,881,774)	(9,822,069)	(9,838,693)	(-43,081)	(+16,624)
Emergency appropriations	(92,354)	---	---	(-92,354)	---
Rescission	(-30,000)	(-30,000)	(-30,000)	---	---

DEPARTMENT OF THE INTERIOR ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS BILL FY 2006 (H.R. 2361)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE II - ENVIRONMENTAL PROTECTION AGENCY					
Science and technology	744,061	760,640	765,340	+21,279	+4,700
(By transfer from Hazardous substance superfund)	(35,808)	(30,605)	(30,606)	(-5,202)	(+1)
Environmental programs and management	2,294,902	2,353,764	2,389,491	+94,589	+35,727
Pesticide fees (legislative proposal)	---	(50,000)	---	---	(-50,000)
Office of Inspector General	37,696	36,955	37,955	+259	+1,000
(By transfer from Hazardous substance superfund)	(12,896)	(13,536)	(13,536)	(+640)	---
Buildings and facilities	38,688	40,218	40,218	+1,530	---
Emergency appropriations (P.L.108-324)	3,000	---	---	-3,000	---
Hazardous substance superfund	1,247,477	1,279,333	1,258,333	+10,856	-21,000
Transfer to Office of Inspector General	(-12,896)	(-13,536)	(-13,536)	(-640)	---
Transfer to Science and Technology	(-35,808)	(-30,605)	(-30,606)	(+5,202)	(-1)
Leaking underground storage tank program	69,440	73,027	73,027	+3,587	---
Oil spill response	15,872	15,863	15,863	-9	---
Pesticide registration fund	19,245	12,000	15,000	-4,245	+3,000
Pesticide registration fees	-19,245	-12,000	-15,000	+4,245	-3,000
State and tribal assistance grants	2,438,758	1,779,500	2,074,500	-364,258	+295,000
Categorical grants	1,136,591	1,181,300	1,153,300	+16,709	-28,000
Rescissions (various EPA accounts)	---	---	-100,000	-100,000	-100,000
Subtotal, State and tribal assistance grants	3,575,349	2,960,800	3,127,800	-447,549	+167,000
Total, title II, Environmental Protection Agency:					
New budget (obligational) authority	8,026,485	7,520,600	7,708,027	-318,458	+187,427
Appropriations	(8,023,485)	(7,520,600)	(7,808,027)	(-215,458)	(+287,427)
Emergency appropriations	(3,000)	---	---	(-3,000)	---
Rescissions	---	---	(-100,000)	(-100,000)	(-100,000)
(Transfer out)	(-48,704)	(-44,141)	(-44,142)	(+4,562)	(-1)
(By transfer)	(48,704)	(44,141)	(44,142)	(-4,562)	(+1)
TITLE III - RELATED AGENCIES					
DEPARTMENT OF AGRICULTURE					
Forest Service					
Forest and rangeland research	276,384	285,400	285,000	+8,616	-400
State and private forestry	292,506	253,387	254,875	-37,631	+1,488
Emergency appropriations (P.L. 108-324)	49,100	---	---	-49,100	---
National forest system	1,380,806	1,651,357	1,423,920	+43,114	-227,437
Emergency appropriations (P.L. 108-324)	12,153	---	---	-12,153	---
Wildland fire management:					
Preparedness	676,470	676,014	691,014	+14,544	+15,000
Fire suppression operations	648,859	700,492	700,492	+51,633	---
Additional appropriations (Title IV)	394,443	---	---	-394,443	---
Other operations	377,687	67,761	399,000	+21,313	+331,239
Emergency appropriations (P.L. 108-324)	1,028	---	---	-1,028	---
Funded in Defense Bill (P.L. 108-287) (sec. 8098)	(30,000)	---	---	(-30,000)	---
Subtotal	2,098,487	1,444,267	1,790,506	-307,981	+346,239
Capital improvement and maintenance	514,701	380,792	468,260	-46,441	+87,468
Emergency appropriations (P.L. 108-324)	50,815	---	---	-50,815	---
Funded in Defense Bill (P.L. 108-287) (sec. 8098)	(10,000)	---	---	(-10,000)	---
Land acquisition	61,007	40,000	15,000	-46,007	-25,000
Acquisition of lands for national forests, special acts	1,054	1,069	1,069	+15	---
Acquisition of lands to complete land exchanges (indefinite)	231	234	234	+3	---
Range betterment fund (indefinite)	3,021	2,963	2,963	-58	---
Gifts, donations and bequests for forest and rangeland research	64	64	64	---	---

DEPARTMENT OF THE INTERIOR ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS BILL FY 2006 (H.R. 2361)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Management of national forest lands for subsistence uses	5,879	5,467	5,467	-412	---
Total, Forest Service	4,746,208	4,065,000	4,247,358	-498,850	+182,358
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Indian Health Service					
Indian health services:					
Non-contract services	2,098,424	2,207,277	2,207,277	+108,853	---
Contract care	480,318	507,021	507,021	+26,703	---
Catastrophic health emergency fund	17,750	18,000	18,000	+250	---
Total, Indian health services	2,596,492	2,732,298	2,732,298	+135,806	---
Indian health facilities	388,574	315,668	370,774	-17,800	+55,106
Total, Indian Health Service	2,985,066	3,047,966	3,103,072	+118,006	+55,106
National Institute of Health					
National Institute of Environmental Health Sciences	79,842	80,289	80,289	+447	---
Agency for Toxic Substances and Disease Registry					
Toxic substances and environmental public health	76,041	76,024	76,024	-17	---
Total, Department of Health and Human Services	3,140,949	3,204,279	3,259,385	+118,436	+55,106
OTHER RELATED AGENCIES					
Executive Office of the President					
Council on Environmental Quality and Office of Environmental Quality	3,258	2,717	2,717	-541	---
Chemical Safety and Hazard Investigation Board					
Salaries and expenses	9,027	9,200	9,200	+173	---
Emergency fund	397	---	---	-397	---
Total, Chemical Safety and Hazard	9,424	9,200	9,200	-224	---
Office of Navajo and Hopi Indian Relocation					
Salaries and expenses	4,930	8,601	8,601	+3,671	---
Institute of American Indian and Alaska Native Culture and Arts Development					
Payment to the Institute	5,916	6,300	6,300	+384	---
Smithsonian Institution					
Salaries and expenses	489,035	524,135	524,381	+35,346	+246
Facilities capital	126,123	90,900	90,900	-35,223	---
Total, Smithsonian Institution	615,158	615,035	615,281	+123	+246
National Gallery of Art					
Salaries and expenses	91,708	97,100	97,100	+5,392	---
Repair, restoration and renovation of buildings	10,946	16,200	16,200	+5,254	---
Total, National Gallery of Art	102,654	113,300	113,300	+10,646	---

DEPARTMENT OF THE INTERIOR ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS BILL FY 2006 (H.R. 2361)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
John F. Kennedy Center for the Performing Arts					
Operations and maintenance	16,914	17,800	17,800	+886	---
Construction	16,107	15,200	10,000	-6,107	-5,200
Total, John F. Kennedy Center for the Performing Arts	33,021	33,000	27,800	-5,221	-5,200
Woodrow Wilson International Center for Scholars					
Salaries and expenses	8,863	9,201	9,085	+222	-116
National Foundation on the Arts and the Humanities					
National Endowment for the Arts					
Grants and administration 1/	121,264	121,264	121,264	---	---
National Endowment for the Humanities					
Grants and administration	122,156	122,605	122,605	+449	---
Matching grants	15,898	15,449	15,449	-449	---
Total, National Endowment for the Humanities	138,054	138,054	138,054	---	---
Total, National Foundation on the Arts and the Humanities	259,318	259,318	259,318	---	---
Commission of Fine Arts					
Salaries and expenses	1,768	1,893	1,893	+125	---
National Capital Arts and Cultural Affairs					
Grants	6,902	7,000	7,000	+98	---
Advisory Council on Historic Preservation					
Salaries and expenses	4,536	4,988	4,860	+324	-128
National Capital Planning Commission					
Salaries and expenses	7,888	8,344	8,177	+289	-167
United States Holocaust Memorial Museum					
Holocaust Memorial Museum	40,858	43,233	41,880	+1,022	-1,353
Presidio Trust					
Presidio trust fund	19,722	20,000	20,000	+278	---
White House Commission on the National Moment of Remembrance					
Operations	248	250	250	+2	---
Total, title III, related agencies:					
New budget (obligational) authority (net)	9,011,621	8,411,659	8,642,405	-369,216	+230,746
Appropriations	(8,898,525)	(8,411,659)	(8,642,405)	(-256,120)	(+230,746)
Emergency appropriations	(113,096)	---	---	(-113,096)	---
Grand total:					
New budget (obligational) authority (net)	26,982,234	25,724,328	26,159,125	-823,109	+434,797
Appropriations	(26,803,784)	(25,754,328)	(26,289,125)	(-514,659)	(+534,797)
Emergency appropriations	(208,450)	---	---	(-208,450)	---
Rescissions	(-30,000)	(-30,000)	(-130,000)	(-100,000)	(-100,000)
(Transfer out)	(-48,704)	(-44,141)	(-44,142)	(+4,562)	(-1)
(By transfer)	(48,704)	(44,141)	(44,142)	(-4,562)	(+1)

DEPARTMENT OF THE INTERIOR ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS BILL FY 2006 (H.R. 2361)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I - DEPARTMENT OF THE INTERIOR					
Bureau of Land Management	1,816,910	1,759,042	1,755,115	-61,795	-3,927
United States Fish and Wildlife Service	1,332,591	1,322,894	1,306,168	-26,423	-16,726
National Park Service	2,365,683	2,249,275	2,228,963	-136,720	-20,312
United States Geological Survey	936,464	933,515	974,586	+38,122	+41,071
Minerals Management Service	173,826	167,422	159,682	-14,144	-7,740
Office of Surface Mining Reclamation and Enforcement	296,573	356,549	298,549	+1,976	-58,000
Bureau of Indian Affairs	2,295,702	2,187,469	2,317,976	+22,274	+130,507
Departmental Offices	726,379	815,903	767,654	+41,275	-48,249
Total, Title I - Department of the Interior	9,944,128	9,792,069	9,808,693	-135,435	+16,624
TITLE II - ENVIRONMENTAL PROTECTION AGENCY					
Environmental Protection Agency	8,026,485	7,520,600	7,708,027	-318,458	+187,427
TITLE III - RELATED AGENCIES					
Forest Service	4,746,208	4,065,000	4,247,358	-498,850	+182,358
Indian Health Service	2,985,066	3,047,966	3,103,072	+118,006	+55,106
National Institute of Environmental Health Sciences	79,842	80,289	80,289	+447	---
Agency for Toxic Substances and Disease Registry	76,041	76,024	76,024	-17	---
Council on Environmental Quality and Office of Environmental Quality	3,258	2,717	2,717	-541	---
Chemical Safety and Hazard Investigation Board	9,424	9,200	9,200	-224	---
Office of Navajo and Hopi Indian Relocation	4,930	8,601	8,601	+3,671	---
Institute of American Indian and Alaska Native Culture and Arts Development	5,916	6,300	6,300	+384	---
Smithsonian Institution	615,158	615,035	615,281	+123	+246
National Gallery of Art	102,654	113,300	113,300	+10,646	---
John F. Kennedy Center for the Performing Arts	33,021	33,000	27,800	-5,221	-5,200
Woodrow Wilson International Center for Scholars	8,863	9,201	9,085	+222	-116
National Endowment for the Arts	121,264	121,264	121,264	---	---
National Endowment for the Humanities	138,054	138,054	138,054	---	---
Commission of Fine Arts	1,768	1,893	1,893	+125	---
National Capital Arts and Cultural Affairs	6,902	7,000	7,000	+98	---
Advisory Council on Historic Preservation	4,536	4,988	4,860	+324	-128
National Capital Planning Commission	7,888	8,344	8,177	+289	-167
United States Holocaust Memorial Museum	40,858	43,233	41,880	+1,022	-1,353
Presidio Trust	19,722	20,000	20,000	+278	---
White House Commission on the National Moment of Remembrance	248	250	250	+2	---
Total, Title III - Related Agencies	9,011,621	8,411,659	8,642,405	-369,216	+230,746
Grand total	26,982,234	25,724,328	26,159,125	-823,109	+434,797

DEPARTMENT OF THE INTERIOR ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS BILL FY 2006 (H.R. 2361)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
CONGRESSIONAL BUDGET RECAP					
Scorekeeping adjustments:					
Forest Service limitation from Farm Bill programs.	-20,000	---	---	+20,000	---
NPS land aquisition transfer	---	---	---	---	---
Emergencies in this bill	-208,450	---	---	+208,450	---
Total, adjustments	-228,450	---	---	+228,450	---
Total (including adjustments)	26,753,784	25,724,328	26,159,125	-594,659	+434,797
Amounts in this bill	(26,982,234)	(25,724,328)	(26,159,125)	(-823,109)	(+434,797)
Scorekeeping adjustments	(-228,450)	---	---	(+228,450)	---
Prior year outlays (including supplementals)	---	---	---	---	---
Total mandatory and discretionary	26,753,784	25,724,328	26,159,125	-594,659	+434,797
Mandatory	(52,125)	(52,125)	(52,125)	---	---
Mandatory (prior year)	---	---	---	---	---
Mandatory (total)	(52,125)	(52,125)	(52,125)	---	---
Discretionary	(26,701,659)	(25,672,203)	(26,107,000)	(-594,659)	(+434,797)
Discretionary (prior year)	---	---	---	---	---
Discretionary Domestic (total)	(26,701,659)	(25,672,203)	(26,107,000)	(-594,659)	(+434,797)
RECAP BY FUNCTION					
Mandatory	52,125	52,125	52,125	---	---
Prior year outlays	---	---	---	---	---
Total, Mandatory	52,125	52,125	52,125	---	---
General purpose discretionary	26,701,659	25,672,203	26,107,000	-594,659	+434,797
Prior year outlays	---	---	---	---	---
Total, General purpose discretionary	26,701,659	25,672,203	26,107,000	-594,659	+434,797
Grand total, Mandatory and Discretionary	26,753,784	25,724,328	26,159,125	-594,659	+434,797
DISCRETIONARY 302B ALLOCATION					
GENERAL PURPOSE	26,701,659	25,672,203	26,107,000	-594,659	+434,797
302B ALLOCATION	---	---	26,107,000	+26,107,000	+26,107,000
OVER/UNDER ALLOCATION	26,701,659	25,672,203	---	-26,701,659	-25,672,203

Madam Chairman, I would like to thank the staff of both the minority and majority staff, and Mr. DICKS, and all of those who have worked with the Committee in producing this. We have had outstanding participation, and I thank all of them for their participation.

Madam Chairman, I reserve the balance of my time.

Mr. DICKS. Madam Chairman, I yield myself 6 minutes.

First of all, I want to thank the gentleman from North Carolina (Chairman TAYLOR) for his commendable work for putting together this Interior, Environment and Related Agencies appropriations bill for next year.

This bill is basically good, considering the budget allocation that our subcommittee received. As always, the chairman and his staff have included me in the process of putting together the bill, and for that I am very appreciative. Such cooperation is a hallmark of the Interior Subcommittee, and it is the chairman who sets the tone.

While the bill we are considering today represents hard work all around, I must note that it falls short of properly funding many programs. The reason for this failure is the inadequate budget allocation we have. The shortfall compared to the 2005 Interior bill adds up to more than $800 million.

As you know, this is the first year that the Interior Subcommittee has funded the EPA, and what a challenge it is proving to be with the President's budget proposing a cut of more than $500 million from last year. These are very deep holes to fill.

Let me switch to a positive note by praising the decision by the administration and the chairman to fully fund uncontrollable costs such as pay COLAs and rent.

Now, this may sound like just a matter of fact, but it makes all of the difference in the world in our national parks on whether they can operate properly. Over the last few years the administration has been proposing unrealistically low funding levels to pay for these uncontrollable costs. This year the budget did include the funding to meet these costs, and I applaud the chairman for including them in the bill, and I hope that the administration will continue to propose full coverage of uncontrollable costs in future budget submittals.

I also want to express my gratitude to the gentleman from North Carolina (Chairman TAYLOR) for the continued effort to increase funding for the operation of our national parks. I think we have a great team to make sure that the national parks, certainly the most beloved of our Federal public lands, receive enough money to provide our constituents the visit they expect and deserve.

The $30 million the gentleman from North Carolina (Chairman TAYLOR) has added to the $22 million increase contained in the budget will mean a second consecutive year of very healthy increases in the Park Service operations budget, and I want to pledge to continue to help my chairman to make sure that the Park Service Partnership Program stays on track towards better management.

The biggest concern that I have in this bill is the reduction in spending for clean water activities. First, I must commend the chairman for his decision 2 weeks ago to agree to add an extra $100 million to the Clean Water State Revolving Fund from unobligated EPA funds from previous years. But even with this additional funding, the Clean Water Revolving Fund will be $240 million lower than this year.

If you compare the proposed funding in 2006 to the level in 2004, there is a decrease of nearly $500 million in just 2 years. I know that many of you are hearing from your State and local officials about the effect this cut will have on plans to construct and improve water treatment facilities.

The Federal Government should not be retreating in this fashion from such an important responsibility. For that reason I am going to support an amendment to increase funding for the Clean Water State Revolving Fund.

I must also register my disagreement with the decision to continue to retreat from the commitment made in 2000 to increase funding for the Conservation Trust Fund. If the Lands Legacy conservation agreement was being followed, this bill would have $1.8 billion for the various conservation activities under our jurisdiction. Instead the bill contains only $750 million. I wish this bill did not contain the President's proposal to eliminate funding for the Land and Water Conservation Fund Stateside grants program.

I also disagree with the decision to provide no money for land acquisition within the Land and Water Conservation Fund, but I do sympathize that those decisions were tough due to the situation our allocation has caused. Core programs, such as agency operations, must come before grant programs such as these.

Even though the awful fiscal situation we are faced with is the direct cause of these decisions, I do hope that we can better meet the obligations of the Lands Legacy agreement when we ultimately finish the 2006 Interior and Environment bill.

It is gratifying to note that we seem to have come to a consensus on funding on the NEA and the NEH, in that this bill provides level funding compared to this year. I again will be joining with what I predict will be a majority of my colleagues in support of an amendment to increase both of these endowments.

Last year the Interior Subcommittee made a wise decision to be better prepared for the cost of firefighting. We provided $500 million for both fiscal year 2004 and 2005 in emergency funding to prevent the painful borrowing from other Interior and Forest Service programs that has occurred in past years when more fires than were expected depleted the annual firefighting budget.

Although neither the President's budget nor this bill contains such contingency funding for 2006, there is an increase of $120 million over the nonemergency spending level in fiscal year 2005. I hope this is sufficient to meet the challenge of what could be a busy fire season with estimates of higher than average threats in several areas of the country, including Washington State and the Northwest.

I also agree with the decision to restore some of the cuts in the budget to the Indian school and construction account. Even with this added money, this bill contains a cut of $75 million to those important programs, and it is important that we are freezing the funding level for the Indian trust accounting program. I believe we should not spend money at the expense of other Indian programs on a historical accounting exercise that cannot produce the desired results.

Again, I want to thank the gentleman from North Carolina (Chairman TAYLOR) and his great staff, led by Debbie Weatherly for their hard work on the 2006 Interior and Environment appropriations bill.

I also want to commend Mike Stephens on Mr. OBEY's staff and Pete Modaff of my staff for their part in helping to put together this bill. I hoped we could do better, but this is a difficult situation that we are in, and I appreciate the cooperation, the bipartisan spirit in which this bill was created.

Madam Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Madam Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SHERWOOD).

Mr. SHERWOOD. Madam Chairman, the bill before us today is one that required many tough choices. It required fiscal discipline. It also required the committee to meet the environmental, land management, cultural, science, resource and recreation needs of the Nation in a responsible manner; tough choices were required and I believe the right and most reasonable choices were made.

The bill helps meet our fiscal responsibilities by cutting $800 million in discretionary spending from the fiscal year 2005 level, but it also allows us enough money that our Nation's priorities can be carried out by the diverse departments and agencies funded in the bill.

There are many competing interests in this bill that had to be balanced and addressed in a tight allocation. We may hear some Members lament that greater funding was not provided for a particular program, but I believe that Members would be hard pressed to name another program that should be cut so the one they favor can be increased. One thing is certain, the gentleman from North Carolina (Chairman TAYLOR) made a special effort to include both parties in the drafting of

the bill and conducted a fair and impartial hearing process.

The bill places priorities in the areas where they need to be. Increases were provided for wildland firefighting, the operations of the National Parks and National Forest Systems, Superfund hazardous waste cleanup program, environmental science and technology, and Indian health and education.

The bill contains necessary initiatives in forest health, in backlog maintenance in the national parks, Everglades restoration, and the national fire plan. This is a bill that makes tough but right choices and puts priorities where they should be.

This bill is as good as it can be given the budget restrictions. It deserves our support and I urge its passage.

Mr. DICKS. Madam Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY), the distinguished ranking Democratic member of the full Appropriations Committee, who has played a very constructive role, along with the gentleman from California (Chairman LEWIS), in trying to help us move this bill forward today.

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

Let me simply say that I think the chairman has produced a fair process. He has treated the minority fairly and I very much appreciate that, but I believe the bill fails this country in many fundamental ways, and that failure is a direct result of the Republican budget resolution which requires this committee to cut $11.7 billion below the amount needed to maintain current services for domestic discretionary programs.

As the gentleman from Texas (Mr. DELAY), the majority leader, said 2 weeks ago, ''This is the budget that the American people voted for when they returned a Republican House, a Republican Senate and a Republican White House last November.'' I think that is true. This is exactly what it means.

The Republicans in this House voted by a vote of 218 to 212 to adopt that budget resolution. Not one single Democrat voted for that budget resolution, because we recognized the damage that would be done by it. Now, we are told by Members of the majority side we have limited resources. We absolutely agree with that.

That is why this House should never have voted to eliminate all taxes on estates of over $7 million. It should never have voted to give persons who make more than a million dollars $140,000 tax cuts next year and do it all with borrowed money because the result of that vote has been a $400 million cut in EPA programs to improve the quality of our air and our water.

□ 1230

The result has been a 40 percent cut in the clean water revolving fund. We have $388 billion worth of needs at the community level to fix sewer and water systems; and yet this program is cut by 40 percent in this bill.

The damage done by this bill cannot be fully understood unless we take a look at it in a broader context. This is a great and growing country. When I came to this Congress, there were 203 million people in this country. Today, there are 282 million. That is a 34 percent increase. We are going to have another 26 million increase between now and 2010.

When I came, there were 108 million cars in America. Today, there are 231 million cars. That means more pollution. It means more congestion. It means more pressure on our national parks. It means more pressure on the part of real estate developers. It means more pressure on our sewer and water programs.

In the face of that new pressure, what are we getting out of this bill? We are getting a 34 percent reduction in the funding for the main bill that will help us to clean up our sewer and water problem. I think that is an incredibly myopic decision.

In the teeth of all of that pressure, we are crippling EPA.

We talk about how happy we are to see a slight increase in the national parks budget; but in fact, there are still 720 positions in the National Park Service that continue to remain unfunded. We have 200 of the 544 wildlife refuges that have no staff whatsoever.

In the teeth of all that expanded pressure, what do we get? Despite this bill, we still have a $5 billion backlog in maintenance for the Park Service, a $13 billion backlog for our national forests.

I would like to see, for instance, this bill enable us to buy precious land at Pope's Creek on the property where George Washington was born before a real estate developer can grab it and turn it into condos; but we are not going to be able to do that because this bill, for the first time in the 36 years I have been a Member of this House, zero-funds land acquisition programs at both the State and the Federal level. We ought not to do that.

For two generations, we have had a bipartisan consensus behind certain minimal actions in the environmental area, especially in the area of clean water. This bill unravels that consensus because it means we can talk a good game in terms of cleaning up our water and our air, but we are not going to put our dollars where our mouth is.

So I think, as the gentleman from Texas (Mr. DELAY) says, ''This is the budget that the American people voted for when they returned a Republican House, a Republican Senate, and a Republican White House last November.'' If you are satisfied with the results of this bill today, vote for it. I intend to vote against it. I think it is a disaster for the environmental consensus that we have built up with such hard work for so long.

Mr. TAYLOR of North Carolina. Madam Chairman, I yield 3 minutes to the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Madam Chairman, I thank the chairman for yielding time. I very much appreciate his service on the bill that he has produced, and I support this bill, and I appreciate his efforts and the efforts of the gentleman from Washington (Mr. DICKS), the ranking member, and the staff on the committee.

However, there is a part of this bill that the country needs to be aware about. All across America we are confronted with skyrocketing energy prices, whether at the gasoline pump or our utilities at home or the manufacturing sector or the feedstock to produce fertilizer (which, therefore, affects agriculture).

What is the connection between that and this bill? This bill has language in it that perpetuates more than 30 years of misguided policy. It has provisions that continue a ban on drilling in most of the outercontinental shelf, offshore drilling that could be occurring in the United States of America. And 60 percent of America's oil reserves are in that outercontinental shelf. Forty percent of our natural gas reserves are in that outercontinental shelf. Yet, for more than 30 years this Congress, each year, has perpetuated a ban on drilling in most of those areas.

What is the consequence of that? It is the high prices. The consequence is the high prices we are experiencing. The result is that each year America is spending $179 billion to buy foreign oil and bring it to the United States of America. Rounded off, it is $180 billion, that we could be using to produce energy safely, in an environmentally friendly and clean fashion here in the United States. But because of language that this Congress has put into this bill for over 30 years, we are not doing that.

Right now, almost 60 percent of the oil and gas that we consume in the United States is imported. We need to fix that. We will have several amendments to address this that are offered on this bill.

We will probably hear from people saying, oh, my goodness, we cannot do that; we have got to protect the environment. But we can do it by protecting the environment.

The offshore drilling that does occur right now in the United States produces a fourth of the oil and gas that we have in the U.S. What is their environmental record? The amount of oil that is spilled is 1/1,000 of 1 percent. That is all—because we have made so many advances in environmentally friendly methods to handle this drilling. That means we are using methods that are 99.999 percent safe and friendly to the environment.

We need to revisit those provisions that limit offshore drilling, and I hope we will do that today.

Mr. DICKS. Madam Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER), a good supporter of this bill.

Mr. BLUMENAUER. Madam Chairman, I appreciate the gentleman's

courtesy in permitting me to speak on behalf of this bill.

The congressional consideration of the Interior appropriations bill should be one of the highlights of this congressional session, as it touches on things that are near and dear to people's hearts: clean water, vast open spaces, environmental protection, even opportunities to invest in the arts.

Sadly, what should be a positive expression of our values, our hopes, and our opportunities is instead in this bill a pattern of broken promises to our communities and to ourselves. Unfortunately, the bill represents lost opportunities and is a symbol of the inability of this Congress and this administration to match our priorities with those of our constituents and, most importantly, with the future of this country.

I agree that the dramatic underfunding in terms of the budget allocation put the chairman and the ranking member and the staff in a hole to begin with, and my heart goes out to them; but there is no reason that we, as a Congress, cannot use the billions of dollars that are set aside in a trust fund for the Land and Water Conservation Fund that have not been tapped as these resources are set aside expressly for this purpose of land conservation.

In the year 2000, as the gentleman from Washington (Mr. DICKS), my friend, mentioned, he was integral to fashioning an important compromise that gave flexibility to the Committee on Appropriations. We in Congress made a commitment to the public and an agreement amongst ourselves to fund this responsibility. It was something that then-Governor Bush sounded as one of his pledges when he was running for the White House. The promises of candidate Bush, President Bush and of Congress to our constituents and to ourselves is broken again by this budget.

Now, there are specific proposals to try and make an inadequate bill better. I will support and speak out strongly in support of working to stop the diluting of our commitment to clean water with an amendment to stop the administration's efforts to weaken water quality protections, putting more sewage into our rivers and streams and drinking water.

As a former commissioner of public works, I was responsible for the administration of sewage and water resource programs. I am not insensitive to the needs of many communities to occasionally blend water not completely treated. I recognize the need to do that in extreme weather events, an important tool for communities; but it is not something that we should be doing routinely. We should instead be reducing our use of this tool wherever possible rather than increasing it.

The EPA rule weakening the current policy would actually penalize communities like mine and yours around the country that have worked to upgrade and improve their systems.

In periods of extreme wet weather, blending will still often be necessary. It is legal under the current law, and it is not going to be changed with the amendment that will be offered. The anti-sewage dumping amendment would not change these existing blending standards, but they will prevent the EPA from lowering them to authorize routine sewage dumping.

Now is not the time to move backwards. Water bodies around the country are impaired. We need to make sure that we are not making it harder to ultimately meet these water quality standards.

I urge joining me in supporting the amendment and working with the members of this committee to try to craft this bill in a way that meets the needs of America's communities.

Mr. TAYLOR of North Carolina. Madam Chairman, I yield myself such time as I may consume.

Before I recognize the next speaker, I want to point out that it is not, as I am hearing, that we are obliterating the clean water State revolving fund or the arts funds. We are funding the arts and humanities $259 million, the same as the 2005 year. We are funding the State revolving fund $850 million, the same as we did in 2005.

Unfortunately, with the costs and the deficit we have now, we cannot continue to put more and more in. We are trying to do the best we can by consistently funding our needs in this area.

Madam Chairman, I yield 1 minute to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Madam Chairman, I thank the chairman for yielding this time to have an opportunity to address an issue that is so important to this country, and that issue is the energy that drives this economy.

We all know that everything that we purchase in this country has got an energy cost component in it; and so when we address the energy issues, we know that when we can provide more supply of energy, whether it comes from someplace else on the globe, whether it comes from the northern hemisphere, whether it comes from the United States, whether it is renewable energy or whether it is a consumable energy, that is at least in theory not renewed, all of those things add to the overall size of the energy pie.

It is our responsibility here in this Congress to be able to expand the size of that pie so we have more energy available to the consumers; and we know that due to the law of supply and demand, the more supply there is, of course the less relative demand there will be. The relative costs of energy will either be slowed in their increase or actually diminished in some cases, and we can see reductions in the price of energy.

It is critical to me, in the part of the State I come from. We are very vulnerable to energy. We use gas and diesel fuel for the production of agriculture, for example, and we also produce ethanol and biodiesel. So we are a renewable energy export center, as well as a consumer of energy.

I have watched this policy here in the United States, and we tend to take sides a little bit. That taking sides falls into a few categories: energy consumers who want all the energy they can get, as cheap as they can get it; and environmentalist interests that want to be able to preserve the pristine areas of America at whatever cost to the economy.

I would take the stand that natural gas in this country, for example, we have a huge domestic supply of natural gas in the North American Continent underneath nonnational park public lands. We have a tremendous supply of natural gas offshore in the Outer Continental Shelf, Gulf of Mexico, and a lot of that is, as we stand here, off limits to producers. That has driven up the cost of natural gas in my district and all across this country and put an additional price on virtually everything that we sell and purchase.

So, Madam Chairman, I appreciate the opportunity to address this House and the opportunity also to have some time yielded to me for this important subject matter.

Mr. DICKS. Madam Chairman, I yield 2½ minutes to the distinguished gentleman from West Virginia (Mr. RAHALL), the ranking member of the Committee on Resources.

□ 1245

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

Mr. RAHALL. Madam Chairman, I thank the distinguished ranking member of the subcommittee for yielding me this time.

Madam Chairman, we all recognize that the Committee on Appropriations must work within the constraints of a budget that is completely inadequate to meet the Nation's needs. I acknowledge that. But the fiscal year 2006 Interior and Environment appropriation bill also reflects the kinds of choices made in recent years by this administration and the majority in Congress, which made this clash of growing needs and shrinking budgets unavoidable.

The effect is that the Department of the Interior and our other departments and agencies are being put on a crazy fad diet that is harmful to the health of the Nation. I am troubled, for example, by the continued underfunding of maintenance needs to our national parks. The committee has seen fit to provide $20 million over the President's request for operations, an increase I support, but our national parks should be safe places, where parents and children can roam and relax, where they can picnic and hike and raft. Instead, our parks are falling apart, and against a huge backlog of maintenance needs, this bill cuts funds for park construction projects, a critical component of our park maintenance efforts.

Forest Service programs that help to promote safety and job creation in

rural America are also underfunded in this bill. Economic action programs, which enable rural communities and businesses to become more economically self-sufficient through the use of forest resources were zeroed out.

The situation here goes well beyond trimming fat. We can talk all we want about the need for a lean government, but this is not belt tightening, as some would suggest. This is more like being shoved into Scarlet O'Hara's corset.

The President eliminated statewide funding for the Land and Water Conservation Fund in his budget. Those monies are indispensable to States across the Nation that rely on those matching monies for their parks and recreation budgets. But while the President may have conducted a tummy tuck, this bill calls for something close to an amputation. Even the Federal share is axed.

I am especially troubled by the flat lining of the appropriation from the Abandoned Mine Reclamation Fund. There continues to exist a large inventory of high priority human health and safety threatening sites in our Nation's coalfields. The unspent balance in the fund is approaching $2 billion, yet this money from a fee assessed on the coal industry is not being adequately deployed to combat these threats to coalfield citizens and their communities.

Madam Chairman, this bill is not a case of an overweight agency being squeezed into a slimmer, trimmer budget. This is a case of a starving agency trying to survive on the crumbs of a fiscal mess. I regret that I cannot support this bill.

Mr. TAYLOR of North Carolina. Madam Chairman, I yield 1 minute to the gentleman from Indiana (Mr. SOUDER).

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

Mr. SOUDER. Madam Chairman, there are many important parts of this bill, but I want to speak briefly to the House about our love for the national parks. We have about a $600 million backlog, and it is overwhelming to try to address this in an appropriation bill where money is so tight.

We have a bill called the National Parks Centennial Act that tries to address this. Senators MCCAIN, FEINSTEIN, and ALEXANDER are leading the fight in the Senate and the gentleman from Washington (Mr. BAIRD), myself, as well as key appropriators such as the gentleman from Virginia (Mr. WOLF), the gentleman from Ohio (Mr. REGULA), the gentleman from Illinois (Mr. LAHOOD), and others here in the House. But what is before us today is actually very important, because even in a time of tight budgets the Committee on Appropriations has seen fit to raise the President's request on national parks by $70 million over last year's funding, and $20 million above the President's approval.

At a time when we are fighting on so many different fronts to figure out how to balance our budget and move towards a balanced budget, where every trade-off between immunizations and Medicaid and whether we support our troops and veterans benefits and all this, it is important to remember the legacy of America's national parks, America's gifts to the world, and I appreciate it very much in this overall important bill that they have increased the funding for the national parks.

Mr. UDALL of Colorado. Madam Chairman, I have come to the reluctant conclusion that this bill does not deserve approval, and so I will not vote for it.

This is not a criticism of Chairman TAYLOR, Congressman DICKS, and the other members of the Appropriations Committee who had the unenviable task of developing the bill. The budget authority allocated to the Interior and Environment Subcommittee fell far short of the amount needed to adequately fund the agencies and activities within their jurisdiction. That in turn was the result of the unrealistic and inadequate budget resolution that the Republican leadership pushed through the Congress earlier this year. But while the shortcomings of the bill are understandable, they are nonetheless so serious that I cannot vote for it.

Among the worst are its severe reductions in funding for the Environmental Protection Agency. It cuts EPA's Clean Water State Revolving Fund by $242 million below the 2005 funding level. This will mean that many communities in Colorado and elsewhere will be adversely affected as projects that have already been approved by State water authorities for future funding probably will be rejected, scaled back, or substantially delayed.

The wrong-headedness of this is clear when we recall that just two years ago EPA Administrator Whitman issued a formal report, entitled the "Water Gap Analysis," which estimated the twenty-year fiscal shortfall between what we are currently spending and what is required at $388 billion.

Further, the bill includes cuts beyond those required by the budget resolution. Perhaps the most notable is the reduction of $190 million of Land and Water Conservation Act funding, including funding for all new Federal land acquisitions as well as all assistance to States. This, too, is something that I cannot support.

In Colorado and across the county there is a need for wise reinvestments of the funds coming into the treasury from oil and gas development on the Outer Continental Shelf and elsewhere. The wise principle of the Land and Water Conservation Fund Act is that these short-term gains should be used to provide long-term assets for the American people. This bill turns its back on that principle.

Of course, there are some good things in this bill. I am particularly glad that because of the adoption of an amendment I sponsored along with Mrs. CUBIN, Mr. RAHALL, and Mr. CANNON it includes $242 million for the payments in lieu of taxes—or PILT—program that is so important to local governments in Colorado and across the country. This is only about 80 percent of the amount authorized for PILT, but it is a great improvement over the amount proposed by the administration—which sought a cut of $26 million below last year's level.

Nonetheless, overall, the bill falls woefully short of what is needed and I do not think it deserves to pass.

Mr. STARK. Madam Chairman, I rise today in opposition to H.R. 2361. This legislation is irresponsible. It under-funds programs to preserve open space. It endangers public health. And, it abdicates our responsibility to protect the environment for future generations.

In this time of increased growth and urban sprawl, our green spaces are more precious then ever. Instead, this bill eliminates funding for the Land and Water Conservation Fund, designed to help local communities preserve open space, protect wildlife and make recreation opportunities available in urban areas.

In addition, this bill cuts funding for the environmental enforcement activities of the EPA by $12 million. Republicans have consistently sought to weaken environmental standards and this maneuver is the latest in a series of attempts to undermine what have been successful environmental protections and the behest of big business. Big business should never be allowed a free pass to destroy the environment while endangering the health of millions of Americans who will be exposed to dirtier air and water.

I won't vote for this indefensible legislation that only serves to harm the environment and put Americans' health at risk. We have a responsibility to protect our citizens and our environment and this legislation blatantly takes us in the opposite direction. I urge my colleagues to vote ''no.''

Mr. FILNER. Madam Chairman, unfortunately I did not get a chance to offer an amendment with Mr. REYES to provide an additional $10 million for a critical program in the Interior-EPA Appropriations bill. The funds would have been used for ''architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission.''

This is the section of the EPA's State and Tribal Assistance Grants program that funds the Border Environment Infrastructure Fund (BEIF). The amendment would have transferred the $10 million out of the U.S. Geological Survey's (USGS) $974.5 million appropriation. The USGS appropriation in this bill is currently $39 million more than the FY2005 appropriation, and $41 million more than the president's request. The border program, on the other hand, has been flat-funded at $50 million for several years.

The record should reflect that we did not intend for the USGS's National Water-Quality Assessment (NAWQA) Program to be impacted by the reduction in USGS's appropriation. NAWQA carries out very important work collecting and analyzing data and information in more than 50 major river basins and aquifers across the Nation in order to develop long-term information on streams, ground water, and aquatic ecosystems in support of sound management and policy decisions. This critical program would have been shielded from the $10 million cut in USGS appropriations.

In Imperial County, California, the New River carries raw sewage from Mexico through the town of Calexico, and air pollution from Mexicali contributes to the worst childhood asthma rates in the state. A modest increase in funding for the BEIF would begin to improve the situation. The BEIF, which was established by the North American Development Bank to

administer grant resources provided by the EPA, helps finance the construction of water and wastewater projects in the U.S.-Mexico border region.

The objective of the BEIF is to make environmental infrastructure projects affordable for communities throughout the U.S.-Mexico border region by combining grant funds with loans or other forms of financing. It is designed to reduce project debt to a manageable level in cases where users would otherwise face undue financial hardship.

We have seen what BEIF can accomplish when it has adequate funding. BEIF grants have played an important role in the successful construction of water conservation projects in the Cameron Irrigation District in Texas; a wastewater project in Heber, California; a wastewater collection and treatment project in Patagonia, Arizona; and a sewer system and wastewater treatment plant in the Salem and Ogaz communities in New Mexico.

All projects supported by the BEIF must have a health and/or ecological benefit in communities on the U.S. side of the border. All projects must also be certified in a rigorous vetting process undertaken by the Border Environment Cooperation Commission.

There is strong support for increasing BEIF funding. The bipartisan Border Governors' joint declaration last year called for a ''substantial increase'' in funding for the program.

While many important programs in the Interior-EPA Appropriations bill have been shortchanged, the lack of funding for BEIF is particularly troubling. The border region is in desperate need of assistance. Communities in the border region struggle with some of the highest poverty rates in the Nation as well as air and water pollution—often originating in northern Mexico—that contributes to severe public health problems. The region lacks basic infrastructure, such as water and sewer service, that most of the rest of the country takes for granted.

The neglect of these largely low-income and Hispanic communities, along with the dirty air and water they are forced to endure, represent a grave environmental injustice. According to the U.S.-Mexico Border Health Commission, the border region includes three of the ten poorest counties in the United States and twenty-one counties that have been designated as economically distressed areas.

The Commission also reports that approximately 432,000 people live in 1,200 colonias in Texas and New Mexico, which are unincorporated, semi-rural communities that are characterized by substandard housing and unsafe public drinking water or wastewater systems. If the border region were made the 51st state in the Union, it would rank last in access to health care; second in death rates due to hepatitis; last in per capita income; and first in the numbers of school children living in poverty, according to the Commission

The Good Neighbor Environmental Board, an independent U.S. Presidential advisory committee that operates under the Federal Advisory Committee Act, recommends restoring BEIF to its mid-1990s funding level of $100 million dollars.

There are currently 105 certified clean water projects in the pipeline waiting for funding. Examples of the many certified projects that could be carried out in disadvantaged communities if the BEIF had an appropriate funding level include: Water/wastewater systems improvements in Brawley, California; a wastewater project in Nogales, Arizona; a solid waste project in Doña Ana County, New Mexico; and a water conservation project in Brownsville, Texas.

Supporters of this amendment include the Border Trade Alliance, the Border Counties Coalition, Clean Water Action, National Council of La Raza and others.

I will continue fighting to increase appropriations for the Border Environment Infrastructure fund and protect communities in the border region.

Mr. FARR. Madam Chairman, I rise in strong opposition to both the Peterson Amendment and the Istook Amendment. If passed, these amendments will trample on a longstanding bipartisan moratorium on offshore oil and gas development that was initiated by former President Bush, continued under President Clinton, and endorsed in President Bush's FY 2006 budget. Given this legacy of strong bipartisan support, I am simply amazed that the OCS moratorium is under such assault.

However, this is exactly what we face today with these amendments. Mr. Peterson's amendment strikes liquefied natural gas (LNG) from the moratorium while Mr. ISTOOK's amendment calls for the entire moratorium in the Eastern Gulf of Mexico, on both oil and gas, to vanish—poof—when the United States meets an arbitrary percentage of crude oil imports, 66.7 percent.

Every year since 1982, Congress has included language in the Interior and Environment Appropriations bill to prevent the Department of Interior from using funds for leasing, pre-leasing, and related activities in sensitive coastal waters. Mr. Speaker, some might wonder why so many coastal areas stand firmly behind the OCS moratorium. I answer with tourism, tourism, and more tourism. Tourism is not just a major industry for coastal states or a mere staple of their coastal economies. It is, along with recreation, the fastest growing sector of the ocean economy according to the President's own U.S. Commission on Ocean Policy's Final Report. The money spent by tourists pay the bills and put food on the table for the people living in these communities. Offshore oil and gas drilling directly threatens this economic engine and the people of these communities know it.

By removing LNG from the moratorium, Mr. PETERSON's amendment ignores the many concerns being raised about all phases of the LNG process—from exploration all the way to arrival at our ports. These concerns must be considered with more than a few minutes of discussion.

As for Mr. ISTOOK's amendment, we had an opportunity one month ago with H.R. 6 to set a strong and visionary national energy policy to reduce our dependence on imported oil, and yet we did not take advantage of that opportunity. And so today, his amendment attempts to make coastal communities pay for that lack of vision.

Madam Chairman, I cannot accept these amendments because they are short-sighted and fail to uphold decades of bipartisan agreement on protecting our coastlines from oil and gas drilling. At their core, they fail to honor our communities and our environment. In conclusion, Madam Chairman, the Peterson and Istook Amendments should be defeated and I urge a ''no'' vote on both of them.

Mr. NUSSLE. Madam Chairman, I rise to speak on the appropriations bill for the Department of the Interior, Environment, and Related Agencies. This measure is part of the first wave of appropriations bills to be considered under the fiscal year 2006 budget resolution, and provides for the resource management needs for our Nation, clearly a national priority. The bill, which is in compliance with H. Con. Res. 95, the concurrent resolution on the budget, provides appropriations for most of the Department of the Interior, the Environmental Protection Agency, the Forest Service, the Indian Health Service, the Smithsonian Institution, and the National Foundation for the Arts and Humanities, among others.

INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

For the first time, the House Appropriations subcommittee on Interior, Environment, and Related Agencies marked up a bill with their new jurisdiction, reflecting additional responsibility for all discretionary programs under the Environmental Protection Agency and losing some Energy Department programs previously under their jurisdiction. H.R. 2361 provides $26.1 billion in appropriations for fiscal year 2006, which is $653 million, or 2.2 percent, below the fiscal year 2005 level. The level is $432 million over the President's request. The bill complies with section 302(f) of the Budget Act, which prohibits consideration of bills in excess of an Appropriations subcommittee's 302(b) allocation of budget authority and outlays established in the budget resolution.

This measure, like government spending on the whole, has been drawn up under a tighter-than-normal budget constraint. However, this does not mean that needed services are cut in a meaningful way. Two examples from the bill are useful in illustrating this point, one in firefighting through the Forest Service and the Department of the Interior, and the other in water programs for the EPA.

Regarding firefighting, I would point out that the base we are using for comparison, had higher-than-normal spending due to a one-time appropriation of $500 million to be used as insurance in case regular fire fighting appropriations become exhausted. Excluding this one-time appropriation means that the measure before us is $153 million less than the 2005 level rather that $653 million less than 2005. Moreover, some of this one-time money is still available, and will remain available for obligation next fiscal year too for its intended use if regular funding becomes exhausted.

In the water program area, the committee looked for ways to secure funding for EPA's Clean Water Program, a program mentioned even during our own budget resolution proceedings. I understand that GAO found over $100 million in expired EPA grants, contracts, and inter-agency agreements, and that the bill rescinds this money in order to fund an increase in the level of Clean Water Program funding to $850 million from the President's request of $730 million. While it maybe the case that the $100 million found in these accounts, some dating back to the 1980s, would never have been actually been spent, the savings constitute legitimate efforts under the Budget Act. I also note that because this account carries hundreds of millions of dollars in unobligated balances from year to year, the impact from budget reductions relative to the current fiscal year are not likely to result in reductions in community investments next fiscal year.

H.R. 2361 does not contain any emergency-designated BA, which is exempt from budget limits. The bill reduces a National Park Service contract authority account by $30 million—an account not subject to annual appropriations—thereby offsetting discretionary spending through changes in a mandatory spending program. If this provision were stricken (because it constitutes legislating on an appropriations bill) the measure as reported would exceed its allocation under section 302(b) of the Congressional Budget Act.

As we enter the appropriations season, I wish Chairman LEWIS and our colleagues on the Appropriations Committee the best in maintaining their admirable pace of bringing bills to the floor.

In conclusion, I express my support for H.R. 2361.

Mr. GENE GREEN of Texas. Madam Chairman, today are considering the Interior Appropriations Bill, which provides Federal funding for our national parks, as well as the Environmental Protection Agency. I agree with the assessment of our ranking member, Mr. OBEY, that this subcommittee has done good work with a difficult allocation. I would have preferred more resources devoted to important environmental, land management, and land conservation programs.

As this bill moves forward, I hope to work with the subcommittee to provide EPA funding for a much-needed study on air toxics in east Harris County, which lies in the district I represent. The Houston Chronicle recently completed a five-part series titled ''In Harm's Way'' that investigated air toxics in these ''fence-line'' communities near industrial facilities.

In particular, the series noted that the Texas Commission on Environmental Quality found that folks residing in some of Houston's East End neighborhoods experience higher levels of potentially carcinogenic compounds than other areas.

For many years, residents have had concerns and questions about the quality of the air in Houston's East End, the potential relationship to local industry, and the potential health effects on families.

While it came to few conclusions about health impacts of air toxics in Houston, the Chronicle series raised an alarm and confirmed that there is a pressing need for a comprehensive Air Toxics Risk Assessment to properly identify any adverse health effects and their possible relationship to local industry.

With support from the EPA, the City of Houston plans to utilize methods from the EPA's National Urban Toxics Program, which has proven successful in other cities with air quality issues.

The City of Houston, partnering with the University of Texas School of Public Health, is already working to characterize the science and weigh the evidence on health effects. Federal funding would broaden the scope of these efforts to ensure that we can include the full range of risk assessment activities in our efforts to improve the air in Houston.

The folks in fence-line communities are often the workers who produce many of the essential energy and petrochemical products we all use everyday, and they deserve accurate information about their environment.

I look forward to working with the EPA on this effort and hope that the Appropriations Committee will see it fit to include this critical funding during conference negotiations on this legislation.

Mr. HOLT. Madam Chairman, I rise to express my disappointment with the Interior Appropriations bill that we are considering today. I am concerned with the lack of funding for many important programs, and am particularly concerned with the Appropriation Committee's decision to zero out funding for a federal program that is important to my state and the nation—the Land and Water Conservation Fund.

The Land and Water Conservation Fund has been instrumental in assisting local and state government's preserve such vital open spaces is the Land and Water Conservation Fund (LWCF). This program was established in 1965 to address rapid overdevelopment by increasing the number of high quality recreation areas and facilities and by increasing the local involvement in land preservation. To achieve this goal, the fund was separated into two components, one portion of the fund serves an account from which the federal government draws from to acquire land and the other portion is distributed to states in a matching grant program.

New Jersey has been active in seeking grants from this program and has received funds from the LWCF that were used to preserve treasures such as the Pinelands National Reserve and the Delaware National Scenic River. In addition, LCWF has provided more that $111 million in state and local grants to build softball fields, rehabilitate playgrounds and to expand state parks.

Unfortunately, in recent years funding for the state side part of this program has been insufficient. In fact, this program was zeroed out in the mid-1990s. In 1999, I joined Representative MCGOVERN in restoring funding for this program. Since then funding for the program has risen to 91 million in Fiscal Year 2005, I am dismayed that the Interior Appropriations bill for Fiscal Year 2006 has once again zeroed out funding for the state grant portion of the program. I am fully aware that we are working under a tight budget and that many programs in this bill receive a significant reduction in funding, but I believe that it is unnecessary and unwise to strip this program of all funding.

Urban and highly developed regions will suffer the most from the elimination of the LWCF state grant program. The LCWF matching grant program has proven to be a successful way to overcome the high cost of living that makes land acquisition and renewal projects costly in these regions. Elimination of this program will leave local leaders without the financial capital necessary to enhance the quality of life in their communities.

Theodore Roosevelt once said, ''The Nation behaves well if it treats the natural resources as assets which it must turn over to the next generation increased, and not impaired, in value.'' Although the citizens of New Jersey and this nation have demonstrated their enthusiasm for this program, this bill fails to meet their commitment to our future.

Mr. CARDIN. Madam Chairman, I have some grave concerns about several provisions of this bill. Among the most important concerns to Marylanders is the fact that this bill cuts clean water funding by $241 million from last year's appropriated level—bringing our financial commitment to clean water down to 1989 funding levels. This money—in the Clean Water State Revolving Fund—pays for sewage system upgrades across the country. We in Maryland know how incredibly important this money is to protect the health of our people.

Fifty million gallons of waste will spew from Baltimore's crumbling sewers in May. Nitrogen pollution is the most significant environmental hazard facing the Chesapeake Bay. The so-called ''dead zones'' in the Chesapeake Bay and its tributaries (in which there is too little oxygen to support a healthy ecosystem) are a direct result of nutrient pollution, principally nitrogen. In July of 2003, data from the EPA's Chesapeake Bay Program shows one of the largest areas of oxygen-depleted water seen since the program began monitoring 20 years ago.

The Clean Water Act requires the Environmental Protection Agency to issue permits for all sewage treatment plants that will protect water quality in the Chesapeake Bay and its tributaries, yet the EPA routinely fails to include restrictions on nitrogen pollution in these permits. The EPA has not updated the standards on nitrogen pollution in almost 20 years.

We need to commit more money—not less—to enforce the Clean Water Act.

No issue united the people of Maryland and our region as well as the effort to ''Save the Bay.'' Rather than fulfill the obligations of the federal government to serve these people and protect the Bay, this bill reduces the federal government's commitment to enforcing the Clean Water Act.

We have an obligation to ensure that our estuaries nationwide are there for future generations, and to do that we must restore funding to enforce the Clean Water Act.

Ms. PELOSI. Madam Chairman, I rise to express my deep concerns about the FY06 Interior and Environment Appropriations Bill.

This bill epitomizes the Republican plan; hand out lavish tax breaks to the wealthy while slashing crucial domestic programs.

In this bill, there are painful cuts to a wide range of valuable programs, from EPA enforcement to the Land and Water Conservation Fund. Among them all, the cuts in clean water funding stand out as a prime example of what's wrong with the Republican budget.

Nothing is more essential to human health than clean water. If we follow down the path the Republicans are leading us, there will be water, water everywhere, but not a drop of it to drink.

More than three decades ago, Americans rose up in outrage, appalled by our filthy rivers and lakes. Congress responded to the clarion call for clean water with the Federal Water Pollution Control Act Amendments of 1972, which evolved into the modern Clean Water Act.

The Clean Water Act set the goals of zero discharge of pollutants, and achieving water that is clean enough to be ''fishable'' and ''swimmable.''

When upstream communities fail to clean up their sewage or prevent polluted runoff, downstream communities pay the price. Beaches must be closed to protect swimmers from harmful bacteria and virus. Fish cannot be eaten, and shellfish cannot be harvested. Water must be treated more thoroughly before it can become drinking water.

We have made enormous progress since the infamous day the Cuyahoga River caught fire in 1969. For three decades, the federal government has been an essential partner, working with the states to pay for clean water infrastructure.

The key federal program today is the Clean Water State Revolving Fund, which provides funding for wastewater collection and treatment, correction of combined sewer overflows, and control of storm water and non-point source pollution. These funds also create good jobs for engineers, contractors, skilled laborers, and manufacturers.

But our work is not done. About 45 percent of water bodies in the U.S. that have been assessed do not meet our water quality standards.

Our wastewater infrastructure is aging, and our population is growing. The Environmental Protection Agency's estimates funding needs range between $300 billion and $400 billion over the next 20 years.

This bill turns back the clock on clean water, slashing the Clean Water State Revolving Fund for the second year in a row. Cuts for this program total $500 million in this two-year period.

This is the wrong thing to do, and the public agrees. A recent poll showed Americans want clean water to be a national priority—67 percent say they prefer spending for clean and safe water over tax cuts.

Madam Chairman, I also wish to state my support for the Stupak amendment on sewage blending. ''Sewage blending'' is a euphemism referring to the practice of allowing some sewage to bypass the secondary treatment phase, the phase in which toxic chemicals, viruses, parasites, and other pathogens are removed.

The amendment would not block current practices needed to cope with heavy rains or snowmelt, but it would prevent EPA from expanding the use of sewage blending.

Furthermore, I intend to support the Andrews-Chabot amendment to stop wasteful and destructive logging in the Tongass National Forest, and the Hastings amendment to promote environmental justice. It is unconscionable that minorities and low-income communities are subjected to worse water and air pollution than other Americans.

Madam Chairman, clean water is precious and must be treated as such. For the sake of our children, and our grandchildren, let us take care of this most basic of needs: clean water.

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

Mr. TAYLOR of North Carolina. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

The Acting CHAIRMAN (Mrs. CAPITO). All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 2361

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

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For necessary expenses for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), $845,783,000, to remain available until expended, of which $1,000,000 is for high priority projects, to be carried out by the Youth Conservation Corps; and of which $3,000,000 shall be available in fiscal year 2006 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation for cost-shared projects supporting conservation of Bureau lands; and such funds shall be advanced to the Foundation as a lump sum grant without regard to when expenses are incurred.

In addition, $32,696,000 is for Mining Law Administration program operations, including the cost of administering the mining claim fee program; to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than $845,783,000, and $2,000,000, to remain available until expended, from communication site rental fees established by the Bureau for the cost of administering communication site activities.

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for fire preparedness, suppression operations, fire science and research, emergency rehabilitation, hazardous fuels reduction, and rural fire assistance by the Department of the Interior, $761,564,000, to remain available until expended, of which not to exceed $7,849,000 shall be for the renovation or construction of fire facilities: *Provided*, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further*, That persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: *Provided further*, That notwithstanding 42 U.S.C. 1856d, sums received by a bureau or office of the Department of the Interior for fire protection rendered pursuant to 42 U.S.C. 1856 et seq., protection of United States property, may be credited to the appropriation from which funds were expended to provide that protection, and are available without fiscal year limitation: *Provided further*, That using the amounts designated under this title of this Act, the Secretary of the Interior may enter into procurement contracts, grants, or cooperative agreements, for hazardous fuels reduction activities, and for training and monitoring associated with such hazardous fuels reduction activities, on Federal land, or on adjacent non-Federal land for activities that benefit resources on Federal land: *Provided further*, That the costs of implementing any cooperative agreement between the Federal Government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: *Provided further*, That notwithstanding requirements of the Competition in Contracting Act, the Secretary, for purposes of hazardous fuels reduction activities, may obtain maximum practicable competition among: (1) local private, nonprofit, or cooperative entities; (2) Youth Conservation Corps crews or related partnerships with State, local, or non-profit youth groups; (3) small or micro-businesses; or (4) other entities that will hire or train locally a significant percentage, defined as 50 percent or more, of the project workforce to complete such contracts: *Provided further*, That in implementing this section, the Secretary shall develop written guidance to field units to ensure accountability and consistent application of the authorities provided herein: *Provided further*, That funds appropriated under this head may be used to reimburse the United States Fish and Wildlife Service and the National Marine Fisheries Service for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference, as required by section 7 of such Act, in connection with wildland fire management activities: *Provided further*, That the Secretary of the Interior may use wildland fire appropriations to enter into non-competitive sole source leases of real property with local governments, at or below fair market value, to construct capitalized improvements for fire facilities on such leased properties, including but not limited to fire guard stations, retardant stations, and other initial attack and fire support facilities, and to make advance payments for any such lease or for construction activity associated with the lease: *Provided further*, That the Secretary of the Interior and the Secretary of Agriculture may authorize the transfer of funds appropriated for wildland fire management, in an aggregate amount not to exceed $9,000,000, between the Departments when such transfers would facilitate and expedite jointly funded wildland fire management programs and projects: *Provided further*, That funds provided for wildfire suppression shall be available for support of Federal emergency response actions.

CONSTRUCTION

For construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $11,476,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out sections 205, 206, and 318(d) of Public Law 94–579, including administrative expenses and acquisition of lands or waters, or interests therein, $3,817,000, to be derived from the Land and Water Conservation Fund and to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein, including existing connecting roads on or adjacent to such grant lands; $110,070,000, to remain available until expended: *Provided*, That 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

FOREST ECOSYSTEM HEALTH AND RECOVERY FUND

(REVOLVING FUND, SPECIAL ACCOUNT)

In addition to the purposes authorized in Public Law 102–381, funds made available in the Forest Ecosystem Health and Recovery Fund can be used for the purpose of planning, preparing, implementing and monitoring salvage timber sales and forest ecosystem health and recovery activities, such as release from competing vegetation and density control treatments. The Federal share of receipts (defined as the portion of salvage timber receipts not paid to the counties under 43 U.S.C. 1181f and 43 U.S.C. 1181f–1 et seq., and Public Law 106–393) derived from treatments funded by this account shall be deposited into the Forest Ecosystem Health and Recovery Fund.

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 percent of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,000,000, to remain available until expended: *Provided*, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under Public Law 94–579, as amended, and Public Law 93–153, to remain available until expended: *Provided*, That, notwithstanding any provision to the contrary of section 305(a) of Public Law 94–579 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this Act by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such action are used on the exact lands damaged which led to the action: *Provided further*, That any such moneys that are in excess of amounts needed to repair damage to the exact land for which funds were collected may be used to repair other damaged public lands.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing laws, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on her certificate, not to exceed $10,000: *Provided*, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For necessary expenses of the United States Fish and Wildlife Service, as authorized by law, and for scientific and economic studies, maintenance of the herd of longhorned cattle on the Wichita Mountains Wildlife Refuge, general administration, and for the performance of other authorized functions related to such resources by direct expenditure, contracts, grants, cooperative agreements and reimbursable agreements with public and private entities, $1,005,225,000, to remain available until September 30, 2007, except as otherwise provided herein: *Provided*, That $2,000,000 is for high priority projects, which shall be carried out by the Youth Conservation Corps: *Provided further*, That not to exceed $18,130,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act, as amended, for species that are indigenous to the United States (except for processing petitions, developing and issuing proposed and final regulations, and taking any other steps to implement actions described in subsection (c)(2)(A), (c)(2)(B)(i), or (c)(2)(B)(ii)), of which not to exceed $12,852,000 shall be used for any activity regarding the designation of critical habitat, pursuant to subsection (a)(3), excluding litigation support, for species listed pursuant to subsection (a)(1) prior to October 1, 2005: *Provided further*, That of the amount available for law enforcement, up to $400,000, to remain available until expended, may, at the discretion of the Secretary, be used for payment for information, rewards, or evidence concerning violations of laws administered by the Service, and miscellaneous and emergency expenses of enforcement activity, authorized or approved by the Secretary and to be accounted for solely on her certificate: *Provided further*, That of the amount provided for environmental contaminants, up to $1,000,000 may remain available until expended for contaminant sample analyses.

CONSTRUCTION

For construction, improvement, acquisition, or removal of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; $41,206,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $14,937,000 to be derived from the Land and Water Conservation Fund and to remain available until expended: *Provided*, That land and non-water interests acquired from willing sellers incidental to water rights acquired for the transfer and use at Lower Klamath and Tule Lake National Wildlife Refuges under this heading shall be resold and the revenues therefrom shall be credited to this account and shall be available without further appropriation for the acquisition of water rights, including acquisition of interests in lands incidental to such water rights, for the two refuges: Provided further, That none of the funds appropriated for specific land acquisition projects can be used to pay for any administrative overhead, planning or other management costs.

LANDOWNER INCENTIVE PROGRAM

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $23,700,000, to be derived from the Land and Water Conservation Fund, and to remain available until expended: *Provided*, That the amount provided herein is for a Landowner Incentive Program established by the Secretary that provides matching, competitively awarded grants to States, the District of Columbia, federally recognized Indian tribes, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, and American Samoa, to establish or supplement existing landowner incentive programs that provide technical and financial assistance, including habitat protection and restoration, to private landowners for the protection and management of habitat to benefit federally listed, proposed, candidate, or other at-risk species on private lands.

PRIVATE STEWARDSHIP GRANTS

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $7,386,000, to be derived from the Land and Water Conservation Fund, and to remain available until expended: *Provided*, That the amount provided herein is for the Private Stewardship Grants Program established by the Secretary to provide grants and other assistance to individuals and groups engaged in private conservation efforts that benefit federally listed, proposed, candidate, or other at-risk species.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as amended, $84,400,000, of which $20,161,000 is to be derived from the Cooperative Endangered Species Conservation Fund and $64,239,000 is to be derived from the Land and Water Conservation Fund and to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $14,414,000.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, as amended, $40,000,000 to remain available until expended.

NEOTROPICAL MIGRATORY BIRD CONSERVATION

For financial assistance for projects to promote the conservation of neotropical migratory birds in accordance with the Neotropical Migratory Bird Conservation Act, Public Law 106–247 (16 U.S.C. 6101–6109), $4,000,000, to remain available until expended.

MULTINATIONAL SPECIES CONSERVATION FUND

For expenses necessary to carry out the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), the Asian Elephant Conservation Act of 1997 (Public Law 105–96; 16 U.S.C. 4261–4266), the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301–5306), the Great Ape Conservation Act of 2000 (16 U.S.C. 6301), and, the Marine Turtle Conservation Act of 2004 (Public Law 108–266; 16 U.S.C. 6601), $5,900,000, to remain available until expended.

STATE AND TRIBAL WILDLIFE GRANTS

For wildlife conservation grants to States and to the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, American Samoa, and federally recognized Indian tribes under the provisions of the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act, for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished, $65,000,000, to be derived from the Land and Water Conservation Fund, and to remain available until expended: *Provided*, That of the amount provided herein, $6,000,000 is for a competitive grant program for Indian tribes not subject to the remaining provisions of this appropriation: *Provided further*, That the Secretary shall, after deducting said $6,000,000 and administrative expenses, apportion the amount provided herein in the following manner: (1) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than one-half of 1 percent thereof; and (2) to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than one-fourth of 1 percent thereof: *Provided further*, That the Secretary shall apportion the remaining amount in the following manner: (1) one-third of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and (2) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States: *Provided further*, That the amounts apportioned under this paragraph shall be adjusted equitably so that no State shall be apportioned a sum which is less than 1 percent of the amount available for apportionment under this paragraph for any fiscal year or more than 5 percent of such amount: *Provided further*, That the Federal share of planning grants shall not exceed 75 percent of the total costs of such projects and the Federal share of implementation grants shall not exceed 50 percent of the total costs of such projects: *Provided further*, That the non-Federal share of such projects may not be derived from Federal grant programs: *Provided further*, That no State, territory, or other jurisdiction shall receive a grant unless it has developed, by October 1, 2005, a comprehensive wildlife conservation plan, consistent with criteria established by the Secretary of the Interior, that considers the broad range of the State, territory, or other jurisdiction's wildlife and associated habitats, with appropriate priority placed on those species with the greatest conservation need and taking into consideration the relative level of funding available for the conservation of those species: *Provided further*, That no State, territory, or other jurisdiction shall receive a grant if its comprehensive wildlife conservation plan is disapproved and such funds that would have been distributed to such State, territory, or other jurisdiction shall be distributed equitably to States, territories, and other jurisdictions with approved plans: *Provided further*, That any amount apportioned in 2006 to any State, territory, or other jurisdiction that remains unobligated as of September 30, 2007, shall be reapportioned, together with funds appropriated in 2008, in the manner provided herein: *Provided further*, That balances from amounts previously appropriated under the heading ''State Wildlife Grants'' shall be transferred to and merged with this appropriation and shall remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of passenger motor vehicles; repair of damage to public roads within and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the Service and to which the United States has title, and which are used pursuant to law in connection with management, and investigation of fish and wildlife resources: *Provided*, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: *Provided further*, That, notwithstanding any other provision of law, the Service may use up to $2,000,000 from funds provided for contracts for employment-related legal services: *Provided further*, That the Service may accept donated aircraft as replacements for existing aircraft: *Provided further*, That, notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 108–330.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, $1,754,199,000, of which $30,000,000 is provided above the budget request to be distributed to all park areas on a pro-rate basis and to remain in the park base; of which $9,892,000 is for planning and interagency coordination in support of Everglades restoration and shall remain available until expended; of which $97,600,000, to remain available until September 30, 2007, is for maintenance, repair or rehabilitation projects for constructed assets, operation of the National Park Service automated facility management software system, and comprehensive facility condition assessments; of which $1,937,000 is for the Youth Conservation Corps for high priority projects: *Provided*, That the only funds in this account which may be made available to support United States Park Police are those funds approved for emergency law and order incidents pursuant to established National Park Service procedures, those funds needed to maintain and repair United States Park Police administrative facilities, and those funds necessary to reimburse the United States Park Police account for the unbudgeted overtime and travel costs associated with special events for an amount not to exceed $10,000 per event subject to the review and concurrence of the Washington headquarters office.

UNITED STATES PARK POLICE

For expenses necessary to carry out the programs of the United States Park Police, $82,411,000.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, heritage partnership programs, environmental compliance and review, international park affairs, and grant administration, not otherwise provided for, $48,997,000: *Provided*, That none of the funds in this Act for the River, Trails and Conservation Assistance program may be used for cash agreements, or for cooperative agreements that are inconsistent with the program's final strategic plan.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333), $72,705,000, to be derived from the Historic Preservation Fund, to remain available until September 30, 2007, of which $30,000,000 shall be for Save America's Treasures for preservation of nationally significant sites, structures, and artifacts: *Provided*, That any individual Save America's Treasures grant shall be matched by non-Federal funds: *Provided further*, That individual projects shall only be eligible for one grant: *Provided further*, That all projects to be funded shall be approved by the Secretary of the Interior in consultation with the House and Senate Committees on Appropriations and the President's Committee on the Arts and Humanities prior to the commitment of Save America's Treasures grant funds: *Provided further*, That Save America's Treasures funds allocated for Federal projects, following approval, shall be available by transfer to appropriate accounts of individual agencies: *Provided further*, That hereinafter and notwithstanding 20 U.S.C. 951 et seq. the National Endowment for the Arts may award Save America's Treasures grants based upon the recommendations of the Save America's Treasures grant selection panel convened by the President's Committee on the Arts and the Humanities and the National Park Service.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, including the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, $308,230,000, to remain available until expended, of which $17,000,000 for modified water deliveries to Everglades National Park shall be derived by transfer from unobligated balances in the ''Land Acquisition and State Assistance'' account for Everglades National Park land acquisitions: *Provided*, That none of the funds available to the National Park Service may be used to plan, design, or construct any

partnership project with a total value in excess of $5,000,000, without advance approval of the House and Senate Committees on Appropriations: *Provided further*, That, notwithstanding any other provision of law, the National Park Service may not accept donations or services associated with the planning, design, or construction of such new facilities without advance approval of the House and Senate Committees on Appropriations: *Provided further*, That funds provided under this heading for implementation of modified water deliveries to Everglades National Park shall be expended consistent with the requirements of the fifth proviso under this heading in Public Law 108–108: *Provided further*, That none of the funds provided in this or any other Act may be used for planning, design, or construction of any underground security screening or visitor contact facility at the Washington Monument until such facility has been approved in writing by the House and Senate Committees on Appropriations.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 2006 by 16 U.S.C. 460l–10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with the statutory authority applicable to the National Park Service, $9,421,000, to be derived from the Land and Water Conservation Fund and to remain available until expended, of which $1,587,000 is for the administration of the State assistance program.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 245 passenger motor vehicles, of which 199 shall be for replacement only, including not to exceed 193 for police-type use, 10 buses, and 8 ambulances: *Provided*, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further*, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: *Provided further*, That in fiscal year 2006 and thereafter, appropriations available to the National Park Service may be used to maintain the following areas in Washington, District of Columbia: Jackson Place, Madison Place, and Pennsylvania Avenue between 15th and 17th Streets, Northwest.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

The National Park Service may distribute to operating units based on the safety record of each unit the costs of programs designed to improve workplace and employee safety, and to encourage employees receiving workers' compensation benefits pursuant to chapter 81 of title 5, United States Code, to return to appropriate positions for which they are medically able.

If the Secretary of the Interior considers the decision of any value determination proceeding conducted under a National Park Service concession contract issued prior to November 13, 1998, to misinterpret or misapply relevant contractual requirements or their underlying legal authority, the Secretary may seek, within 180 days of any such decision, the de novo review of the value determination by the United States Court of Federal Claims, and that court may make an order affirming, vacating, modifying or correcting the determination.

In addition to other uses set forth in section 407(d) of Public Law 105–391, franchise fees credited to a sub-account shall be available for expenditure by the Secretary, without further appropriation, for use at any unit within the National Park System to extinguish or reduce liability for Possessory Interest or leasehold surrender interest. Such funds may only be used for this purpose to the extent that the benefiting unit anticipated franchise fee receipts over the term of the contract at that unit exceed the amount of funds used to extinguish or reduce liability. Franchise fees at the benefiting unit shall be credited to the sub-account of the originating unit over a period not to exceed the term of a single contract at the benefiting unit, in the amount of funds so expended to extinguish or reduce liability.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, biology, and the mineral and water resources of the United States, its territories and possessions, and other areas as authorized by 43 U.S.C. 31, 1332, and 1340; classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); publish and disseminate data relative to the foregoing activities; and to conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law and to publish and disseminate data; $974,586,000, of which $63,770,000 shall be available only for cooperation with States or municipalities for water resources investigations; of which $8,000,000 shall remain available until expended for satellite operations; of which $23,320,000 shall be available until September 30, 2007, for the operation and maintenance of facilities and deferred maintenance; of which $1,600,000 shall be available until expended for deferred maintenance and capital improvement projects that exceed $100,000 in cost; and of which $174,765,000 shall be available until September 30, 2007, for the biological research activity and the operation of the Cooperative Research Units: *Provided*, That none of the funds provided for the biological research activity shall be used to conduct new surveys on private property, unless specifically authorized in writing by the property owner: *Provided further*, That no part of this appropriation shall be used to pay more than one-half the cost of topographic mapping or water resources data collection and investigations carried on in cooperation with States and municipalities.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for the purchase and replacement of passenger motor vehicles; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Survey duly appointed to represent the United States in the negotiation and administration of interstate compacts: *Provided*, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302 et seq.: *Provided further*, That the United States Geological Survey may enter into contracts or cooperative agreements directly with individuals or indirectly with institutions or nonprofit organizations, without regard to 41 U.S.C. 5, for the temporary or intermittent services of students or recent graduates, who shall be considered employees for the purpose of chapters 57 and 81 of title 5, United States Code, relating to compensation for travel and work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, but shall not be considered to be Federal employees for any other purposes.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only, $152,676,000, of which $77,529,000 shall be available for royalty management activities; and an amount not to exceed $122,730,000, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for Outer Continental Shelf administrative activities performed by the Minerals Management Service (MMS) over and above the rates in effect on September 30, 1993, and from additional fees for Outer Continental Shelf administrative activities established after September 30, 1993: *Provided*, That to the extent $122,730,000 in additions to receipts are not realized from the sources of receipts stated above, the amount needed to reach $122,730,000 shall be credited to this appropriation from receipts resulting from rental rates for Outer Continental Shelf leases in effect before August 5, 1993: *Provided further*, That $3,000,000 for computer acquisitions shall remain available until September 30, 2007: *Provided further*, That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further*, That notwithstanding any other provision of law, $15,000 under this heading shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of MMS concurred with the claimed refund due, to pay amounts owed to Indian allottees or tribes, or to correct prior unrecoverable erroneous payments: *Provided further*, That in fiscal year 2006 and thereafter, the MMS may under the royalty-in-kind program, or under its authority to transfer oil to the Strategic

Petroleum Reserve, use a portion of the revenues from royalty-in-kind sales, without regard to fiscal year limitation, to pay for transportation to wholesale market centers or upstream pooling points, to process or otherwise dispose of royalty production taken in kind, and to recover MMS transportation costs, salaries, and other administrative costs directly related to the royalty-in-kind program: *Provided further*, That MMS shall analyze and document the expected return in advance of any royalty-in-kind sales to assure to the maximum extent practicable that royalty income under the program is equal to or greater than royalty income recognized under a comparable royalty-in-value program.

OIL SPILL RESEARCH

For necessary expenses to carry out title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $7,006,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 10 passenger motor vehicles, for replacement only; $110,435,000: *Provided*, That the Secretary of the Interior, pursuant to regulations, may use directly or through grants to States, moneys collected in fiscal year 2006 for civil penalties assessed under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further*, That appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 10 passenger motor vehicles for replacement only, $188,014,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended; of which up to $10,000,000, to be derived from the Federal Expenses Share of the Fund, shall be for supplemental grants to States for the reclamation of abandoned sites with acid mine rock drainage from coal mines, and for associated activities, through the Appalachian Clean Streams Initiative: *Provided*, That grants to minimum program States will be $1,500,000 per State in fiscal year 2006: *Provided further*, That pursuant to Public Law 97–365, the Department of the Interior is authorized to use up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further*, That funds made available under title IV of Public Law 95–87 may be used for any required non-Federal share of the cost of projects funded by the Federal Government for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: *Provided further*, That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act: *Provided further*, That amounts allocated under section 402(g)(2) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(2)) as of September 30, 2005, but not appropriated as of that date, are reallocated to the allocation established in section 402(g)(3) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(3)): *Provided further*, That amounts provided under this heading may be used for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ADMINISTRATIVE PROVISIONS

With funds available for the Technical Innovation and Professional Services program in this Act, the Secretary may transfer title for computer hardware, software and other technical equipment to State and Tribal regulatory and reclamation programs.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), as amended, the Education Amendments of 1978 (25 U.S.C. 2001–2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), as amended, $1,992,737,000, to remain available until September 30, 2007 except as otherwise provided herein, of which not to exceed $86,462,000 shall be for welfare assistance payments and notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, not to exceed $134,609,000 shall be available for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts, grants, compacts, or annual funding agreements entered into with the Bureau prior to or during fiscal year 2006, as authorized by such Act, of which $129,609,000 shall be available for indirect contract support costs and $5,000,000 shall be available for direct contract support costs, except that tribes and tribal organizations may use their tribal priority allocations for unmet contract support costs of ongoing contracts, grants, or compacts, or annual funding agreements and for unmet welfare assistance costs; and of which not to exceed $478,085,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 2006, and shall remain available until September 30, 2007; and of which not to exceed $61,267,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, the Indian Self-Determination Fund, land records improvement, and the Navajo-Hopi Settlement Program: *Provided*, That notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, and 25 U.S.C. 2008, not to exceed $44,718,000 within and only from such amounts made available for school operations shall be available to tribes and tribal organizations for administrative cost grants associated with ongoing grants entered into with the Bureau prior to or during fiscal year 2005 for the operation of Bureau-funded schools, and up to $500,000 within and only from such amounts made available for school operations shall be available for the transitional costs of initial administrative cost grants to tribes and tribal organizations that enter into grants for the operation on or after July 1, 2005, of Bureau-operated schools: *Provided further*, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 2007, may be transferred during fiscal year 2008 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: *Provided further*, That any such unobligated balances not so transferred shall expire on September 30, 2008.

CONSTRUCTION

For construction, repair, improvement, and maintenance of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands, and interests in lands; and preparation of lands for farming, and for construction of the Navajo Indian Irrigation Project pursuant to Public Law 87–483, $284,137,000, to remain available until expended: *Provided*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further*, That not to exceed 6 percent of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau: *Provided further*, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a nonreimbursable basis: *Provided further*, That for fiscal year 2006, in implementing new construction or facilities improvement and repair project grants in excess of $100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: *Provided further*, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: *Provided further*, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(b), with respect to organizational and financial management capabilities: *Provided further*, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2504(f): *Provided further*, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2507(e): *Provided further*, That in order to ensure timely completion of replacement school construction projects, the Secretary may assume control of a project and all funds related to the project, if, within eighteen months of the date of enactment of this Act, any tribe or tribal organization receiving funds appropriated in this Act or in any prior Act, has not completed the planning and design phase of the project and commenced construction of the replacement school: *Provided further*, That this Appropriation may be reimbursed from the Office of the Special Trustee for American Indians Appropriation for the appropriate share of construction costs for space expansion needed in agency offices to meet trust reform implementation.

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, $34,754,000, to remain available until expended, for implementation of Indian land and water claim settlements pursuant to Public Laws 99–264, 100–580, 101–618, 106–554, 107–331, and 108–34, and for implementation of other land and water rights settlements, of which $10,000,000 shall be

available for payment to the Quinault Indian Nation pursuant to the terms of the North Boundary Settlement Agreement dated July 14, 2000, providing for the acquisition of perpetual conservation easements from the Nation.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed and insured loans, $6,348,000, of which $701,000 is for administrative expenses, as authorized by the Indian Financing Act of 1974, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $118,884,000.

ADMINISTRATIVE PROVISIONS

The Bureau of Indian Affairs may carry out the operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts and grants, either directly or in cooperation with States and other organizations.

Notwithstanding 25 U.S.C. 15, the Bureau of Indian Affairs may contract for services in support of the management, operation, and maintenance of the Power Division of the San Carlos Irrigation Project.

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase and replacement of passenger motor vehicles.

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office operations or pooled overhead general administration (except facilities operations and maintenance) shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103–413).

In the event any tribe returns appropriations made available by this Act to the Bureau of Indian Affairs for distribution to other tribes, this action shall not diminish the Federal Government's trust responsibility to that tribe, or the government-to-government relationship between the United States and that tribe, or that tribe's ability to access future appropriations.

Notwithstanding any other provision of law, no funds available to the Bureau, other than the amounts provided herein for assistance to public schools under 25 U.S.C. 452 et seq., shall be available to support the operation of any elementary or secondary school in the State of Alaska.

Appropriations made available in this or any other Act for schools funded by the Bureau shall be available only to the schools in the Bureau school system as of September 1, 1996. No funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995. Funds made available under this Act may not be used to establish a charter school at a Bureau-funded school (as that term is defined in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026)), except that a charter school that is in existence on the date of the enactment of this Act and that has operated at a Bureau-funded school before September 1, 1999, may continue to operate during that period, but only if the charter school pays to the Bureau a pro rata share of funds to reimburse the Bureau for the use of the real and personal property (including buses and vans), the funds of the charter school are kept separate and apart from Bureau funds, and the Bureau does not assume any obligation for charter school programs of the State in which the school is located if the charter school loses such funding. Employees of Bureau-funded schools sharing a campus with a charter school and performing functions related to the charter school's operation and employees of a charter school shall not be treated as Federal employees for purposes of chapter 171 of title 28, United States Code.

Notwithstanding any other provision of law, including section 113 of title I of appendix C of Public Law 106–113, if a tribe or tribal organization in fiscal year 2003 or 2004 received indirect and administrative costs pursuant to a distribution formula based on section 5(f) of Public Law 101–301, the Secretary shall continue to distribute indirect and administrative cost funds to such tribe or tribal organization using the section 5(f) distribution formula.

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, $76,563,000, of which: (1) $69,182,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, coral reef initiative activities, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $7,381,000 shall be available for salaries and expenses of the Office of Insular Affairs: *Provided*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or used by such governments, may be audited by the Government Accountability Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 104–134: *Provided further*, That of the amounts provided for technical assistance, sufficient funds shall be made available for a grant to the Pacific Basin Development Council: *Provided further*, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance improvement of capital infrastructure with territorial participation and cost sharing to be determined by the Secretary based on the grantee's commitment to timely maintenance of its capital assets: *Provided further*, That any appropriation for disaster assistance under this heading in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

COMPACT OF FREE ASSOCIATION

For grants and necessary expenses, $5,362,000, to remain available until expended, as provided for in sections 221(a)(2), 221(b), and 233 of the Compact of Free Association for the Republic of Palau; and section 221(a)(2) of the Compacts of Free Association for the Government of the Republic of the Marshall Islands, and the Government of the United States and the Federated States of Micronesia, as authorized by Public Law 99–658 and Public Law 108–188.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, $118,755,000; of which $23,555,000 shall remain available until expended for a departmental financial and business management system; of which not to exceed $8,500 may be for official reception and representation expenses; and of which up to $1,000,000 shall be available for workers compensation payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines: *Provided*, That none of the funds in this or previous appropriations Acts may be used to establish any additional reserves in the Working Capital Fund account other than the two authorized reserves without prior approval of the House and Senate Committees on Appropriations.

AMENDMENTS OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Madam Chairman, I offer several amendments, and I ask unanimous consent they be considered en bloc.

The Acting CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The Clerk read as follows:

Amendments offered by Ms. SLAUGHTER:

Beginning on page 44, line 25, strike ''; of which $23,555,000 shall remain available until expended for a departmental financial and business management system;'' and insert ''(reduced by $8,000,000);''.

Page 75, line 12, insert ''(reduced by $7,000,000)'' after the dollar amount.

Page 106, line 9, insert ''(increased by $10,000,000)'' after the dollar amount.

Page 106, line 13, insert ''(increased by $10,000,000)'' after the dollar amount.

Page 106, line 25, insert ''(increased by $5,000,000)'' after the dollar amount.

□ 1300

Mr. TAYLOR of North Carolina. Madam Chairman, I ask unanimous consent that debate on this amendment, and any amendments thereto, be limited to 20 minutes, to be equally divided and controlled by the proponent and myself, the opponent.

The Acting CHAIRMAN (Mrs. CAPITO). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Acting CHAIRMAN. The Chair recognizes the gentlewoman from New York (Ms. SLAUGHTER) for 10 minutes.

Ms. SLAUGHTER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise to offer an amendment that will redress a grievous act that was perpetrated, without our knowledge, on a majority of this great body.

Last year, with a resounding vote of 241 Members, the House voted an increase for our Federal arts agency that

we knew would pay us back many times over, both in hard dollars and in ways that are simply incalculable for the people we represent.

The actual amounts were small, an increase of $10 million for the National Endowment for the Arts and $3.5 million for the National Endowment for the Humanities.

But the loss was great. After conferees met for the omnibus funding bill, NEA, incredibly, received just several hundred thousand dollars, and NEH received less than $3 million.

Not only was the will of this great body thwarted, but also the creative activities of our artistic constituents in every congressional district in this country were stifled.

Grants were not made and those grants were not matched. Works were not created. Performances did not happen. Audiences did not gather. Minds were not enlightened, souls were not fed; and the small businesses that depend on the nonprofit arts community did not profit.

Finally, the funds that should have been returned to the Federal Treasury in the form of tax receipts, many times over the original amounts, never arrived. It was a lose-lose situation for everyone involved: the artists, the audiences, our communities, and our small businesses, as well as our local, State, and Federal treasuries.

By all rights, I should be standing here asking my colleagues not just to restore the moneys that we voted for last year, but to double them. If our Federal deficit were not so huge and our budgets so tight, believe me, I would be doing just that.

Instead, I ask you simply to put these Federal art agencies back in business where we funded them last year, with an increase of $10 million for NEA and $5 million for NEH.

The President's own budget request for NEA was telling. In it, even as he suggested level funding for the agency, he asked that American Masterpieces, a majestic program that emphasizes the best of American art, should be increased by $6.5 million.

President Bush was rightfully enthusiastic about that program. It is an increase that I personally applaud. But unless we provide an overall increase for NEA, the money is slated to come from Challenge America, a highly popular program that supported artists in more than 99 percent of our congressional districts last year.

That is not a good idea. Challenge America grants go to the towns and hamlets of this sprawling country, where big touring companies will rarely go, and major actors, actresses, writers and artists may never appear in person. For example, last year Challenge American grants went to Aliceville, Alabama and to Bainbridge Island, Washington; to Red Wing, Minnesota and Lucas, Kansas. They energized audiences in Texarkana, Texas and Locust Grove, Arkansas, and spellbound art-hungry folks in Albany, Georgia and Billings, Montana.

We can and should do both: increase American Masterpieces as the President wishes, and continue to challenge the artists and their audiences in our congressional districts by funding Challenge America.

Madam Chairman, $10 million will ensure that the program will prosper and grow, with Chairman Gioia using up to 10 percent of the money to ensure effective administration of this fine program. And $5 million will enhance NEH's We the People, which promotes the teaching and understanding of American history.

But let me remind my colleagues, even with these increases, we are far from providing the agencies with the funds they received in the mid-1990s. As you see from the first chart, NEA is currently funded at $121 million, but received $176 million in 1992. And NEH is funded at $138 million, while it received $175.5 million in 1994.

Why is it so important to rebuild the funding for these agencies? Well, every year I stand here and remind you what an economic powerhouse the nonprofit arts industry has become in American. As this second chart proves, it produces over $134 billion annually. I do not know of any other investment we make that does that. Please note it returns $10.5 billion to the Federal Treasury.

In these difficult financial times for so many of our districts, as our local leaders strive to balance their budgets by cutting services, we would be irresponsible not to invest in the arts. While other industries have suffered, the nonprofit arts world continues to build in strength while it encourages the growth of innumerable small businesses on its periphery, thereby creating more jobs.

This third chart may surprise Members. It demonstrates the financial muscle of the arts industry, which has produced far more jobs than all of America's farmers, programmers, doctors, lawyers, or accountants. This is an amazing chart.

In fact, while the national economy has grown at a rate of 3.8 percent, the arts have far out-distanced that number by expanding at a rate of 5.5 percent.

And all of that said, I also stand before you at this time, every year, to remind us all of the stunning gifts American artists make to our daily lives. Their creative force not only helps our children learn but also makes them smarter. It brightens the life of each one of us, bringing us joy and comfort, enlightenment and understanding, in ways impossible to find otherwise.

The arts and artists of America are our national treasure, which this great Nation needs, deserves, and must support as other nations do.

For these reasons, I urge Members to vote for the Slaughter/Shays/Dicks/Leach/Price amendment, and thank my colleagues who have joined me today.

Madam Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the gentlewoman is obviously speaking seriously about the arts and humanities. Certainly we support both and have done so generously in this bill. The American public supports arts now by over $9 billion. The government's support is a very minimal part of that $9 billion. In fact, this increase would be an even smaller part of that $9 billion, and so it would be hardly noticeable inside the total support of the arts.

What we are having to sacrifice, though, is to reduce funding for the administration of the Department of the Interior by $8 million and administration of the Forest Service by $7 million. This will cost some 200 staff positions in the Department of the Interior and Forest Service. They are responsible for 634 acres in the United States. This is a primary obligation we have. It is not supported by $9 billion of public support. It is primarily supported with the funding that this Committee has the duty to appropriate.

That is why we are trying to do our primary job by maintaining the levels that we did and to find a balance to show our support for the arts and do the mandated portion that we must do for the Department of the Interior and the Forest Service.

Members can count on us to continue to support the arts, to watch the oversight of our Committees, and this bill strikes a fair balance between the needs of the arts and our responsibility to land management and Indian programs. I ask Members to join me in opposition to this amendment.

Madam Chairman, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Chairman, I yield 2 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Madam Chairman, I rise to urge support for the amendment offered by the gentlewoman from New York (Ms. SLAUGHTER) and myself to increase the funding for the National Endowments for the Arts and Humanities. The amendment would provide an additional $15 million for the endowments—$10 million for the National Endowment for the Arts, and $5 million for the National Endowment for the Humanities. The increase would be offset by reductions in various accounts.

My colleagues may recall that a similar amendment passed the House last year during consideration of the 2005 Department of the Interior bill by a vote of 241 to 185. The amendment provided an additional $10 million for the NEA and $3.5 million for the NEH.

Once again the gentlewoman from New York (Ms. SLAUGHTER) and I are asking for support for this amendment, and perhaps we can obtain a greater margin than last year.

I have sensed over the last few years that the battle over this amendment has cooled and we can move on knowing that a healthy majority in the

House agrees that these two important programs deserve our strong financial support.

This debate presents a good opportunity to make sure our new colleagues understand the importance of this modest Federal support and how it has such a tremendous impact on every one of our congressional districts. Each of the NEA and NEH grants is modest in size, but it is vitally important to the communities they reach. The Federal money serves as a catalyst to draw in private contributions. In fact, we now know that higher levels of Federal money will leverage even greater private support.

Unfortunately, since 1996, the endowments have been underfunded. The endowments are still being funded below their level of 10 years ago. In 1996, Congress reduced the NEA by 39 percent and NEH by 36 percent. Our amendment does not restore those funding levels of a decade ago, but it does provide an opportunity for the Members of the House to show their strong support for the endowments by approving this modest amendment.

Mr. TAYLOR of North Carolina. Madam Chairman, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. PRICE).

(Mr. PRICE of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. PRICE of North Carolina. Madam Chairman, I rise in support of the Slaughter/Shays/Dicks/Leach/Price amendment for increased funding for the National Endowment for the Humanities and the National Endowment for the Arts.

As co-chair of the newly established Congressional Humanities Caucus, I am pleased to support this amendment which will in particular increase funding for NEH's We the People program by $5 million.

We the People is an agency-wide program focused on examining and understanding significant events and themes in our Nation's history. An additional $5 million will enable We the People to support teacher seminars and institutes with new content focusing on American history and civics, media projects focusing on key people and events in American history, and preservation projects that preserve and provide access to important historical documents and artifacts that are central to America's historical and cultural heritage.

We ought to do more, but this modest funding increase will help. It will aid NEH's efforts to conserve and nurture America's heritage, bring humanities to communities across this country, and educate the next generation of Americans. I encourage my colleagues to support this amendment.

Mr. TAYLOR of North Carolina. Madam Chairman, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Chairman, I yield for the purpose of a unanimous consent request to the gentleman from New Jersey (Mr. HOLT).

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

Mr. HOLT. Madam Chairman, I rise in support of the Slaughter/Shays/Dicks/Leach/Price amendment.

Madam Chairman, I rise today in strong support of the Slaughter-Shays-Dicks-Leach-Price Amendment to provide much needed funds for the National Endowment for the Arts and the National Endowment for the Humanities.

This is a long overdue and a modest funding increase to build programs that use the strength of the arts and our Nation's cultural life to enhance communities in every State and every county around America. The additional funds provided through this amendment would keep intact the very successful Challenge America program, which brings the arts to rural communities and inner-city neighborhoods whose limited resources don't always allow for community arts programs.

In 2004, the Challenge America program provided grants to towns and cities in 99% of congressional districts for jazz and blues festivals, showcases for regional musicians and artists, and public-private partnerships that bring the arts into local schools. Dozens of studies have demonstrated the significant positive effect of arts education on students' academic performance, self esteem, and behavior, and the Challenge America grants are an excellent mechanism to bring the arts to students who can greatly benefit from that exposure.

Similarly, the NEH serves to advance the Nation's scholarly and cultural life. The additional funding contained in this amendment would enable NEH to improve the quality of humanities education to America's school children and college students, offer lifelong learning opportunities through a range of public programs, and support new projects that encourage Americans to discover their storied and inspiring national heritage.

It is clear that increasing funding for the arts and humanities is among the best investments that we, as a society, can make. They help our children learn. They give the elderly sustenance. They power economic development in regions that are down and out. They tie our diverse society and country together.

Will the projects that would be sponsored by this increase in funding help defend our country? Probably not, but they will make our country more worth defending. I urge my colleagues to support this amendment.

Ms. SLAUGHTER. Madam Chairman, I yield for the purpose of a unanimous consent request 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. Madam Chairman, I rise in strong support of the Slaughter/Shays/Dicks/Leach/Price amendment.

Madam Chairman, I rise in strong support of Slaughter/Shays/Dicks/Leach amendment to increase funding for the National Endowment for the Arts, NEA, and the National Endowment for the Humanities, NEH.

The arts are crucial for the flourishing and development of societies. As our economy continues to grow it is important that the arts remain a priority in our communities. As former President Kennedy stated, "I am certain that after the dust of centuries has passed over our cities, we, too, will be remembered not for our victories or defeats in battles or in politics, but for our contribution to the human spirit."

Though some would consider our economy hard pressed for such funding as this, I implore my colleagues to consider the profound influence of arts-centric businesses.

While some of the country's concerns only affect a minority of people, the involvement in the arts spans all walks of life. Indeed, it weaves together all communities and crosses racial, gender, and religious boundaries.

In my district, the arts create a sense of nationalism for the State and the rest of the country. For, what would Chicago be without the architecture of the Sears Tower, the flourishing talent in Second City, or the abundant museums? Indeed, the beating pulse of America lives and thrives through the arts.

Not only do the arts enrich societies, but the arts is also an industry. In my district there are 2,989 art related businesses and 44,709 people that make their daily living working in the arts. It is obvious that support of arts, also is support of the economy. Arts-Centric businesses supply 578,000 businesses in the United States and employ 2.97 million people. Even more, it is a growing institution, exceeding the total United States business growth rate by 1.7 percent. Not only do the arts help sustain the economy by supplying jobs and generating revenue, it helps to fuel future creative industries and workers.

These future creative workers come in the form of our children. The arts help in a child's brain development and their creative skills. A country without a full expression of the arts would truly create a void in a child's development. They too deserve the right to blossom and flourish their imagination from the various artistic resources.

We cannot disregard the contributions and growing trends of the arts. The arts and humanities support our culture, it supports our economy, and most importantly it supports our future. In my district there is a wealth of diversity. This diversity is preserved through the arts. The arts promote respect for diversity, and appreciation of other cultures. It seems to me, that these elements are necessary for building stable healthy communities.

Madam Chairman, if we minimize these possibilities in the arts, we will be limiting the liberty of our imagination. I request my colleagues to join me in support of this amendment.

Ms. SLAUGHTER. Madam Chairman, I yield for the purpose of a unanimous consent request to the gentleman from New Mexico (Mr. UDALL).

(Mr. UDALL of New Mexico asked and was given permission to revise and extend his remarks.)

Mr. UDALL of New Mexico. Madam Chairman, I also would stand in support of the Slaughter/Shays/Dicks/Leach/Price amendment.

Madam Chairman, I rise today in strong support of the Slaughter Shays-Dicks-Price-Leach Amendment to increase funding for the National Endowment for the Arts and for the National Endowment for the Humanities.

In my district in New Mexico, arts and humanities are a significant part of daily life—the

name "Sante Fe" conjures up images of Georgia O'Keefe's beautiful flowers and Ansel Adams' breathtaking photographs. But arts and humanities programs are also a major employer. New Mexico's third congressional district has over 1,700 arts-related businesses that employ over 5,300 people. This includes the famed Santa Fe Opera, the budding film industry, numerous respected museums, hundreds of art galleries, mariachi bands, arts schools, and more.

Many of these artists make use of grants through the NEA and NEH. Unfortunately, NEA and NEH programs remain seriously underfunded due to past budget cuts. This modest amendment seeks to increase funding for the National Endowment for the Humanities' "We the People," initiative by $5 million, and the National Endowment for the Arts' "Challenge America" program by $10 million. In congressional terms, these amounts are a blip on the budget screen. But in terms of what they mean to these programs and the constituents who benefit from them, such increases are incredibly helpful, and can mean the survival of numerous arts and humanities programs around the country.

I often hear from New Mexicans who attest to the effectiveness of the We the People initiative in strengthening youth understanding and appreciation of American history and culture. We the People helps all of us become more aware of our past, our values, and our institutions. I believe this effort is crucial for the progress of our country.

In addition to economic benefits of the arts, recent studies have shown the significant impact that arts education can have on at-risk youth. The YouthARTS Development Project recently conducted a study showing that students who are exposed to arts education show an increased ability to express emotions appropriately, communicate effectively with adults and peers, and to work cooperatively with others. They also show decreased frequency of delinquent behavior, improvement in attitudes toward school, higher self-esteem, and much lower dropout rates. These programs are working, and we must make sure we continue to fund them.

I thank my colleagues for offering this amendment and I urge a "yes" vote.

Ms. SLAUGHTER. Madam Chairman, I yield for the purpose of a unanimous consent request to the gentleman from Oregon (Mr. WU).

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

Mr. WU. Madam Chairman, I rise in support of the Slaughter/Shays/Dicks/Leach/Price amendment.

□ 1315

Ms. SLAUGHTER. Madam Chairman, I am pleased to yield the balance of my time to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Madam Chairman, I rise in strong support of the amendment to increase funding for the NEA and the NEH. Without this amendment, the continued flat funding the President requested this year will really amount to another cut. I wish we could return to the days of the first President Bush when the arts were funded at $175 million. The amount we are asking for today amounts to little more than a comma in the budget, a rounding error when compared to Federal spending in other areas such as defense.

Whether it is the educational value, the cultural enrichment, or the substantial economic windfall the arts and humanities create, the NEA and the NEH are two of the best investments this Nation makes. When we shortchange the NEA, we ignore the $134 billion in business that the arts generate, the 4.8 million jobs, the $89.4 billion in household income, and the $25 billion in tax revenues. A recent RAND study noted the importance of the intrinsic benefit of the arts for individuals and communities.

This modest amount asks only to restore the funding level the House supported last year, but that was stripped during conference. It is the very least we should do today. I urge my colleagues to support this amendment and to vote against any attempts to slash funding from the arts and humanities that may be offered in other amendments.

Mr. TAYLOR of North Carolina. Madam Chairman, I yield 30 seconds to the gentlewoman from Connecticut (Mrs. JOHNSON).

(Mrs. JOHNSON of Connecticut asked and was given permission to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Madam Chairman, I rise in strong support of this amendment. Certainly if we do not do a better job of educating our children in the arts, we will be a Nation of poor spirit and little understanding. It is really through the arts that we understand how destructive is greed.

Mr. MCGOVERN. Mr. Chairman, I rise in support of this amendment. I commend Congresswoman SLAUGHTER and Congressman SHAYS for all of their hard work supporting the arts and humanities through the Congressional Arts Caucus.

Mr. Chairman, this a very modest amendment. Indeed, I would support significantly greater increases for both the National, Endowment for the Arts and the National Endowment for the Humanities. The reason is quite simple—these agencies are good for the Third District of Massachusetts and for every community across the country.

Nationwide, nonprofit arts industries generate $134 billion annually in economic activity, support 4.85 million fulltime equivalent jobs, and return $10.5 billion to the Federal Government in taxes. Measured against $1.4 billion in direct Federal cultural spending that is a return of nearly eight to one. Frankly, there aren't many industries that I can think of with those kinds of returns.

The mid-90s brought drastic funding cuts to Federal arts and humanities programs, and it is now more important than ever to keep funding stable. By adding $10 million for NEA and $5 million for NEH, arts businesses will be able to reinvest into their creative enterprises and back into the community. Between 2004 and 2005, growth in the number of arts businesses outpaced total business growth by 5.5 percent vs. 3.8 percent. During this time, when the total number of U.S. jobs shrank 1.9 percent, the drop off of arts employment was less than half that rate.

In my district, there are 1,234 arts-related businesses that employ over 7,000 people. These businesses range from non-profit museums and symphonies to for-profit films and advertising companies. The arts business community serves as a cornerstone for cultural enrichment and the tourist economy. Studies show tourists spend 7 percent more than their local counterparts on arts events. How can we deny that is good for the community's economic, social, and creative well-being.

I would urge my colleagues to join me in supporting the Slaughter Amendment for minor increases in NEA and NEH funding.

Mr. FARR. Madam Chairman, I come to the floor today in strong support of Slaughter amendment to the FY06 Interior Appropriations Act that will increase funding for the National Endowment of the Arts by $10 million and for the National Endowment for the Humanities by $5 million. Even with these increases, the funding level for the NEA will still be $40 million below the FY 1994 level, and the funding level for the NEH will be $30 million below the FY 1994 level.

This amendment is needed to continue the critical work of the NEA and the NEH in providing Americans with access to the arts, and an understanding of American culture, legacy, history, and civics. By funding the arts and humanities in every congressional district and giving priority to rural and underserved communities, the NEA and the NEH ensure that Americans across the country can discover and share these treasures while instilling a sense of historical and cultural heritage in their children. These funding increases will help ensure that future generations continue to have the opportunity to explore the creative worlds of arts and humanities.

In addition to providing important cultural experiences nationwide, the NEA and the NEH also support economic growth and tourism nationwide. The non-profit arts industry generates $134 billion in economic activity, supporting $4.85 million full time equivalent positions. In my district there are 1,801 arts related businesses which employ 5,370 employees. Many of these businesses receive grants from the NEA and play crucial roles in increasing tourism in my district. Events like the Monterey Jazz festival and the Cabrillo Music Festival bring tourists to my district to enjoy these cultural experiences, and our local businesses directly benefit from this influx.

I urge all of my colleagues to support increases in funding for the NEA and the NEH and to oppose any proposal to cut these valuable programs.

Mr. MORAN of Virginia. Madam Chairman, let me share with you two recent experiences that confirm why we should support the Slaughter-Shays-Dicks-Leach-Price amendment to increase funding for the National Endowment for the Arts.

A few weeks ago, I had the privilege of joining NEA chairman Dana Gioa at the Folger Theater to help judge young high school students in a poetry recitation contest. As one of the judges, I had to pick a winner, but I can tell you there were no losers. It was plainly evident all were winners. Each student provided a masterful performance, had presence and demonstrated a clear and impassioned understanding of the work he or she presented from some of the English language's best poets.

It was a memorable evening. But as much as I enjoyed it, I know it left an even stronger impression on the student and the families and friends who joined them. That evening at the Folger Theater brought us all to a common point of a shared experience where barriers and pretenses were cast aside and humanity and understanding prevailed.

Last week I had a conversation with a retired school teacher who volunteers as a docent providing school tours at the National Gallery of Art. She was upset because of a decision by the gallery to suspend the volunteer-led tours for a year while a new program is developed. It didn't make sense to me and I agreed to help.

During our talk, she mentioned how art at the gallery had touched a young student she had led. He was a recent immigrant who had come from a very troubled land. His English was limited and broken but he was able to say to her that the tour had helped calm his inner turmoil and as he put it, "helped make some of the hurt go away."

Art touches people in ways words cannot describe. The dividend this Nation receives from the Endowment for the Arts far exceeds the investment we make with the limited Federal funds.

In Virginia, the Wolf Trap Performing Arts Center has received NEA grants for their nationally recognized artistic and education programs. In addition to year-round performances, Wolf Trap offers a variety of education programs both locally and nationwide. Its primary education program, the Wolf Trap Institute for Early Learning Through the Arts, places professional performing artists in preschool classrooms nationwide. In classroom residencies, these artists use drama, music and movement to teach basic skills and encourage active participation and self-esteem in the earliest stages of learning. Wolf Trap Institute Artists also conducts workshops and presentations throughout the country to demonstrate to teachers and parents how the arts can bring new life to learning and literature.

As we fight for education funding and standards, how can we look past the significant contribution that performing arts organizations like Wolf Trap are making across the country? This is a time when we must embrace this type of unique programming.

A modest increase in funding for the arts and humanities can make a difference creating new opportunities for hundreds of arts and humanities organizations and bringing the organizations out into the communities.

When the NEA budget has been cut, we have seen its dramatic effect on the national arts community and specifically on arts education programs developing at community centers and in our schools. Now is the time when we must invest in the cultural lives of our citizens and in our children's futures.

I cannot fathom how a Nation as rich and prosperous as ours could not find it in its heart to provide a $15 million increase, $10 million for the National Endowment for the Arts and $5 million for the National Endowment for the Humanities. We could eliminate all funding for the endowments tomorrow, and the arts and humanities would survive.

That's not the issue.

The grants NEA provides don't make or break most theater productions, studio exhibitions or symphonic performances. What NEA does with its grants is to ensure that these performances, exhibits and productions are introduced to a greater share of America.

Support the arts, support the NEA and the NEH, support the Slaugher-Shays-Dicks-Leach-Price amendment.

Ms. HERSETH. Madam Chairman, I am pleased that the amendment offered by my esteemed colleagues Ms. SLAUGHTER, Mr. SHAYS, Mr. DICKS, Mr. LEACH, and Mr. PRICE, passed today by a voice vote. The amendment offered on behalf of the Arts Caucus, will increase funding for the National Endowment for the Arts and the National Endowment for the Humanities by $10 million and $5 million respectively. I am a strong supporter of the National Endowments for the Arts and Humanities, and I enjoy a strong working relationship with South Dakota's arts community. As a member of the Arts Caucus, I am proud to support our amendment, which represents an important step towards providing these agencies with the funding they need to continue providing critical support for literary, design, performing arts, and cultural projects in South Dakota and across the country.

Another agency that receives funding under this bill is the U.S. Forest Service, which has the vital responsibility to fight fires on our public lands. I recognize the need for wildland fire protection and I strongly believe that Congress must provide Federal land management agencies with the resources they need to protect our public resources from fire, as well as the lives and property of those who live in and near national forests. It was for this reason that I voted in favor of the amendment offered by my colleague, Mr. BEAUPREZ of Colorado, to increase funding for wildland fire protection.

Unfortunately, I strongly disagree with the source of funding that Mr. BEAUPREZ chose to utilize, the National Endowment for the Arts, in order to fund this wildland fire prevention increase. This amendment was soundly defeated on the House floor. I believe this was a function of the offset that the amendment sought to use, and not a lack of support in the House for forest fire prevention. It also is an indication that we must look for other ways to increase funding for wildland fire prevention. I offer to work with my colleagues in the House of Representatives in the coming years to identify ways to fund increased wildland fire funding without raiding the important funds of the NEA to accomplish that goal.

Mrs. MALONEY. Madam Chairman, I rise today in strong support of the Slaughter-Shays-Dicks-Leach-Price Amendment, which would provide a much needed increase in funding for the National Endowment for the Arts and the National Endowment for the Humanities.

This additional $10 million for the NEA and $5 million for the NEH would help expose our children to American art, history and culture. In addition to the enjoyment and life-enrichment that each participant in the arts experiences, the involvement of children in the arts has been shown to improve reading and language development, mathematics skills, fundamental cognitive skills, motivation to learn, and social behavior.

The Arts and Humanities not only enhance the lives of our children—they also keep our economy strong. Each year, the nonprofit arts industry creates $134 billion dollars in economic activity, generating $24.4 billion dollars in tax revenue for our local, state and federal governments, and supporting nearly 5 million full-time jobs all across our country.

In my district alone, nearly 120,000 people are employed by the museums, theaters, art galleries and other arts organizations that I am proud to represent. In fact, with over 8,000 arts-related organizations, including the Metropolitan Museum of Art, the Museum of Modern Art, and the American Ballet theater, my district has the third highest number of arts-related business in the country. For my constituents, and for all Americans, the arts mean business.

Because such a modest increase in funding would bring the arts and jobs to so many people, I strongly support the Slaughter-Shays-Dicks-Leach amendment, and I urge my colleagues to do the same.

Mr. TAYLOR of North Carolina. Madam Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mrs. BIGGERT). The question is on the amendments offered by the gentlewoman from New York (Ms. SLAUGHTER).

The amendments were agreed to.

Mr. OBEY. Madam Chairman, I move to strike the last word.

Madam Chairman, I do not want to rain on anybody's parade, but in a sense I do. What we have just witnessed here is our annual Kabuki dance on the question of the arts.

In the first years that the Republicans were in control, they wound up making a very large cut in the arts program. I offered an amendment in the Appropriations Committee to restore a portion of that cut and that amendment was adopted. But the majority exercised its power in the Rules Committee and when this bill went to the Rules Committee, the Rules Committee arbitrarily, unilaterally eliminated my amendment which had been adopted by the full committee. But then they proceeded to make the exact same amendment in order with one difference: that amendment was to be offered by a Republican, because the majority party wanted to have the issue both ways. They wanted to be able to tell their right-wing supporters that they had cut the devil out of the arts, yet they wanted to tell what few remaining moderates were left in their caucus that they could go home with a rollcall in their pocket bragging about the fact that a Republican had partially restored some of that funding. That maneuver was enough to give insincerity and hypocrisy a bad name.

And now what we have seen here today is, I hope, not a repetition of what we saw last year. Because last year, as was pointed out, we had an arts funding level which was $49 million below where it was at its high water mark, $100 million in real terms after adjusting for inflation below where it had been just a few years earlier.

An amendment was offered, $10 million. Liberals and progressives argued for it. Conservatives argued against it. The amendment was passed, added $10 million, everybody got to put out their press releases; and, guess what, when we wound up in conference with the

Senate, 80 percent of the money was stripped out of the bill. So the bill was left with a token $2 million increase.

I just have one observation. I would hope that if the House wants to demonstrate the slightest bit of sincerity on this issue, that having adopted this amendment, it will stick to it in conference so that something other than a phony Kabuki dance has taken place on the floor this year. I know that is quite a bit to expect given the hypocrisy that often accompanies conferences and given the penchant for so many Members of either body to try to pose for political holy pictures on some of these issues; but nonetheless I would like to express the vain hope that on occasion some sincerity will be displayed on this issue and that if the House adopts an amendment, it really means it.

Mr. FLAKE. Madam Chairman, I move to strike the last word.

I had planned to offer an amendment on this subject, but I will settle for a colloquy with the chairman of the subcommittee.

Before I start, let me just note for the record, I am glad to state to my constituents, I would have voted to cut the National Endowment for the Arts funding and, believe me, want that part of the record.

Madam Chairman, the problem we have in the West is in terms of Federal land. Looking at my own State of Arizona, 48.1 percent Federal ownership. The State of Nevada, 84.5 percent. Utah, 57.4 percent. It is going up. The problem is, it is going up. You try to run a school system in a county where the Federal Government owns 80, sometimes 90 percent, of the land in that county, it is tough to have enough taxable land to do so.

The Federal Government has tried to make up for that by what is called PILT, or payment in lieu of taxes, where they compensate counties with a high incidence of Federal land, but there is less of that than there is Federal land certainly. I would argue here and have argued throughout this appropriation process that we need to cut Federal land acquisition funding. We have successfully done that. The chairman of the subcommittee has been cooperative. We have seen a cut there. The problem is as soon as we get to the Senate, it is negotiated upward once again, so that PILT funding is not nearly what was authorized, and Federal land acquisition, we always get more than what we ask for.

I would just respectfully ask the chairman if he will work within the conference to keep the number for Federal land acquisition as low as possible. I understand that the $43.1 million, I believe, in the bill now is for land sales that are already in the works. That is understandable. But if we could please insist that that not go up any higher. As we go up and acquire more Federal land, we simply make the problem worse. We exacerbate the problem of PILT funding that is too low and Federal land acquisition, which is too high.

Mr. TAYLOR of North Carolina. Madam Chairman, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Madam Chairman, I thank the distinguished gentleman from Arizona for yielding.

I certainly agree that PILT is a necessary funding item. We have added $30 million to it. I agree with the gentleman that we will make every effort to do so as we move to conference with the Senate. As the gentleman from Wisconsin mentioned a moment ago, when you go to the Senate, you cannot always control what happens. We will certainly stand by our statements to decrease the spending on land if we can manage that, and we will count on the House to support us in that area.

But I do thank the gentleman for calling this to our attention, and we certainly support what he is thinking about.

Mr. FLAKE. I thank the gentleman. There will be an amendment coming up, the Cubin amendment, which will seek to restore a better balance to Federal land acquisition as opposed to PILT funding.

Let me just point on this map again, people point to the red State/blue State issue. The red in this case indicates the percentage of Federal land ownership, or the incidence of Federal land ownership. As my colleagues can see, there is a lot of red out there. We do not need as much red. The more red you have, the more red ink that local governments have. We need to restore this imbalance.

Mr. HINCHEY. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise to engage the chairman of the Interior subcommittee in a colloquy dealing with some language in the committee report requiring the Environmental Protection Agency to fund a national Academy of Sciences study concerning the Hudson River. The language was added to the report unfortunately without the knowledge of those of us who represent the Hudson River area in New York State.

More than a decade has already been spent studying cleanup alternatives for the Hudson River. Therefore, the request for this new study raises concerns. Those of us who live in the region would like clarification as to what the impact of this new study would be. From what I understand, the report language in no way is intended to delay, stop, or otherwise disrupt either phase I or phase II of the PCB cleanup planned for the Hudson River which is slated to begin in the summer of 2006.

Is that the gentleman's understanding as well?

Mr. TAYLOR of North Carolina. Madam Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. The gentleman is correct. In no way should this study delay or disrupt either phase I or II of the planned cleanup of the Hudson River or any other ongoing Superfund project. I will work with the gentleman to consider modifications to clarify this in the conference agreement.

Mr. HINCHEY. I very much thank the gentleman for his leadership in the committee, and I thank him for his response. There is widespread support for the Hudson River cleanup project, and I know the people I represent will be relieved to hear the chairman clarify that this report will in no way delay phase I or phase II of the Hudson River PCB cleanup. I would suggest that if the study does proceed, it should be focused on new developments and should address the National Academy of Sciences' recommendations.

Mr. TAYLOR of North Carolina. I thank the gentleman from New York for his good work on the Hudson River program and for bringing the need for clarification of the intent of the study to my attention.

Mr. KENNEDY of Minnesota. Madam Chairman, I move to strike the last word.

Madam Chairman, as someone who enjoys recreational activities like fishing, boating and hunting and represents thousands of Minnesotans who do as well, I share a special responsibility to make sure that these opportunities are available for generations to come. Today, many of those activities are threatened by the spread of aquatic invasive species. We have seen a rapid growth of invasive species in recent years, from the Great Lakes, to our coastal waters, to local lakes and streams throughout the country.

In my home State of Minnesota, we have increasingly been challenged to find ways to prevent and control disruptive species like European and Asian carp. In many areas, invasive European carp have found their way into Minnesota's wetlands and lakes, while Asian carp has found its way into the Mississippi River as far north as Iowa. If not properly addressed, both of these species threaten to disrupt the ecosystem that many Minnesotans enjoy for fishing and boating.

One of the few ways in which Federal, State and local governments collectively combat the threat of aquatic invasive species is through the State Aquatic Nuisance Species Management plans. These plans identify activities to eliminate or reduce the environmental, public health and safety risks associated with aquatic invasive species. These activities are implemented by States through feasible, cost-effective management policies undertaken in an environmentally sound manner. These plans are available to both individual States and affected multi-State regions. In fact, currently 14 States have approved plans, and at least 11 other States have plans under development.

Unfortunately, the resources available to effectively implement these

plans fall well short of the mark. This is the third year in a row plans to attack invasive species are funded at slightly over $1 million. I very much appreciate the work of the chairman and the committee to try to address this very important issue but would suggest that these limited funds are not enough to counteract the billions of dollars in costs associated with invasive species habitat destruction and lost recreational opportunities.

□ 1330

Simply put, we must invest more in these plans if we hope to control the spread of these aquatic pests.

I appreciate the chairman's offering to work with me.

Mr. TAYLOR of North Carolina. Madam Chairman, will the gentleman yield?

Mr. KENNEDY of Minnesota. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Madam Chairman, I thank the gentleman for yielding to me.

I agree with the gentleman that invasive species pose a threat to the marine environment, and we do provide funds in the bill reported by the Committee to address the Invasive Species Act. We have also provided other invasive species funds to stop that in areas of timber and things coming in from imports. For instance, the hemlock wooly adelgid is one of the invasive species that are threatening one of our species and may wipe it out in plant area.

But the gentleman is right, and I will work with him to see if we can increase funding in this area in the conference report. I note there are some small increases included in the bill for invasive species efforts by the Fish and Wildlife Service also. So we will try to work with him to increase his request.

Mr. KENNEDY of Minnesota. Madam Chairman, reclaiming my time, I would like to thank the chairman for his commitment and look forward to working with him to have more resources for this vitally important need in the conference report.

Ms. LEE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the arts amendment, however, in strong opposition to this bill's environmental shortcomings.

First, I want to applaud the gentlewoman from New York (Ms. SLAUGHTER) and the gentleman from Connecticut (Mr. SHAYS), who are the co-chairs of our Arts Caucus, and their staffs for their leadership on this issue.

Providing for adequate resources to the National Endowment for the Humanities, which is the largest single funder of humanities programs in our country, and to the National Endowment for the Arts, the infrastructure for private nonprofit and federal arts initiatives, this should really be a very high priority for this body.

Mr. Chairman, my district, the Ninth Congressional District of California, ranks 24th in the country in the number of arts businesses and 46th in the country in the number of arts employees. Since we debated this amendment last year, there are 113 more arts-related businesses in my district, and that translates into more jobs for my constituents. Across the country there are more than 578,000 arts-centered businesses. This is really not a marginal group. The arts and humanities do constitute the pulse of our Nation.

Supporting this amendment is critical and should be noncontroversial. We already know that the economic downturn and our budget crisis are crippling arts initiatives all over this country. Many who are eager to restrict funding for the NEA and NEH forget that organizations which receive grants for these institutions include the museums, performing and visual arts, film, radio, television, design, publishing, and educational facilities in all of our districts.

In Oakland, one of the cities in my district, most arts education programs continue to face extinction, and the students in these communities are the ones who stand to benefit the most from arts education initiatives.

Performance and visual arts offer people of all ages, ethnic and social and economic backgrounds opportunities for new experiences and constructive retreats. For example, the Berkeley-based California Shakespeare Theater, an arts education grants recipient, will offer student matinees and Arts Integration programs this year, which support student achievement and creativity and teacher professional development for some of the most underserved communities in my district.

Clearly, a vote against this amendment, which is endorsed by our bipartisan Arts Caucus, is really a vote against the vital thread which sustains the pulse of our country. The long-term economic and social impact of a minute $10 million increase for the NEA and a $5 million increase for the NEH will be felt for generations. It is the very least we can do to promote and preserve American culture and heritage. It should not be controversial. The facts speak for themselves. If we cut arts funding, we cut jobs and opportunities for all. We all need to support the Arts Caucus bipartisan amendment.

I am appalled, however, by what this bill proposes to do to America's environment. Once more we are forced to vote on an Interior appropriations bill that is nothing less than an environmental disaster. This bill cuts funding for the EPA by $318 million. This bill cuts $241 million for the Clean Water State Revolving Fund, which is a 37 percent reduction for California. This bill eliminates $190 million for the Land and Water Conservation Fund. And this bill fails to make critical infrastructure investments in our National Parks System.

Overall, this bill represents a 3 percent cut in funding for our environmental programs and once again points to the misplaced priorities of this administration.

We need a bill that makes a strong commitment to protect the environment, our children's health, and our future. Unfortunately, this bill does not make that commitment.

AMENDMENT OFFERED BY MRS. CUBIN

Mrs. CUBIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. CUBIN:

Page 44, line 25, after the dollar amount, insert the following: ''(reduced by $13,000,000)''.

Page 45, line 16, after the first dollar amount, insert the following: ''(increased by $12,000,000)''.

Mrs. CUBIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The Acting CHAIRMAN (Mr. SHIMKUS). Is there objection to the request of the gentlewoman from Wyoming?

There was no objection.

Mrs. CUBIN. Mr. Chairman, as the Members know, the Payments in Lieu of Taxes program, or PILT as it is called, compensates units of general government for property taxes that they otherwise lose due to Federal ownership of the land within that locality. Our local counties then use these dollars to help fund essential services such as law enforcement, health care, education, firefighting, and search and rescue.

Unfortunately, despite the local benefits to this program in all 50 States, a large majority of the congressional districts' full funding of PILT, as is authorized by law, is simply not a commitment that this Congress has been willing to meet in the past years. My home State of Wyoming has been denied over $75 million in PILT funding over the past 10 years that would have been used to make our communities safer, healthier, and cleaner.

I truly appreciate the efforts of the gentleman from North Carolina (Chairman TAYLOR) and the gentleman from Washington (Mr. DICKS), ranking member, to restore the PILT funding that the administration tried to cut. They even went a step further to show their support of PILT and added an additional $3 million over last year's level. However, this level funding still falls far short of the authorized level and it simply is not enough for these communities.

The Cubin-Rahall-Cannon-Udall amendment would add $12 million to PILT by redirecting funds from the Department of Interior's management, salaries, and expenses at the higher levels. Our amendment still does not bring PILT to full funding, but it would reflect a renewed commitment of Congress to do so by providing approximately 80 percent of the authorized level for this year's funding.

It is also important to emphasize that this amendment still allows the

Department of Interior to spend $10 million more for administrative costs than they did in 2005. We are not cutting salaries. We are simply reducing the $23 million increase that they would receive under this bill and instead directing a portion of those funds back to local counties where every dollar will make a real difference on the ground where people live and where they work.

So I would like to thank the gentleman from Utah (Mr. CANNON), the gentleman from West Virginia (Mr. RAHALL), and the gentleman from Colorado (Mr. UDALL) for co-sponsoring this amendment, as well as the National Association of Counties, the gentleman from Arizona (Mr. FLAKE), and other members of the Western Caucus for the leadership that they have shown on this issue. It is very important to every single State in the country. Shortchanging local communities by underfunding PILT is simply bad policy, and I hope my colleagues will join me in supporting this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I certainly sympathize with the gentlewoman and other Members who have already spoken. I support PILT. In fact, we increased it some $30 million in our bill. And as we indicated with the gentleman from Arizona (Mr. FLAKE) a few minutes ago, we will certainly do more and we appreciate their bringing it to our attention.

But the Department of Interior is responsible for one-fifth of the land in the United States and manages programs that affect over 4 million Native Americans. This amendment would eliminate 110 staff positions and drastically impact the management of numerous important programs, including the management of PILT, the very program that this amendment is intended to help. The PILT program is managed using staff from the Department Management account.

The Interior bill is a balanced bill. In developing this bill, The Committee made a number of difficult choices. If we had additional resources, I believe PILT would be a deserving program and I certainly would try to increase it. But I urge my colleagues to defeat this amendment.

Mr. Chairman, I ask unanimous consent that further debate on this amendment, and any amendments thereto, be limited to 10 minutes, to be equally divided and controlled by the proponent and myself, the opponent.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mrs. CUBIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado (Mr. UDALL).

(Mr. UDALL of Colorado asked and was given permission to revise and extend his remarks.)

Mr. UDALL of Colorado. Mr. Chairman, I rise with my colleague from Wyoming and a number of other colleagues from the West and from the East in support of this bipartisan amendment offered by the gentlewoman from Wyoming (Mrs. CUBIN).

The amendment would increase funding for the Payments in Lieu of Taxes, or PILT program, by $12 million. The result would be to bring the bill total for PILT to about 80 percent of the authorized amount. That would not be enough, in my opinion, but it would be a definite improvement.

PILT payments go to every State except Rhode Island, as well as to the District of Columbia, Guam, Puerto Rico, and the Virgin Islands, as we see on the map here. So PILT is a nationwide program, this amendment is important for local governments across the country. But it is particularly important for Western States because we have the largest amounts of public lands, again as we can see on the map. PILT payments help local governments pay for vital services like firefighting and police protection, construction of public schools and roads, and search and rescue operations. So it should be something local governments can count on without becoming hostage to debates over the management of Federal lands.

But as things stand now, PILT is neither stable nor dependable because the amount of each year's payments is decided by annual appropriations. We were reminded about that when the President's budget proposed a $26 million cut in PILT. This would have been devastating for Colorado. So I am glad the Committee on Appropriations rejected this idea, and I applaud them for including $230 million in the bill for PILT. However, that is still less than the full authorized amount.

That is why I support this amendment and that is why I urge the House to adopt it to bring us closer to full funding.

If I can conclude, the gentlewoman of Wyoming mentioned that it is unnecessary to continue debating PILT every year as a part of the appropriations process. She has a bill that would phase in full funding for PILT over 3 years. I have also introduced a bill with the gentleman from Colorado (Mr. SALAZAR) that would provide permanent automatic funding, and I hope the Committee on Resources will take this up in the near future.

But in the meantime we should pass this very bipartisan amendment, which will help counties all over our great country.

Mrs. CUBIN. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I thank the gentlewoman from Wyoming for yielding me this time.

I would also like to begin by thanking the people who have worked so hard on this bill, especially the gentleman from North Carolina (Mr. TAYLOR), who has been very thoughtful about the Payments in Lieu of Taxes issue and has worked well with us in the past. We are committed to getting full funding for PILT because the counties in rural America and areas where they are dominated by the Federal Government need that kind of support.

I have a map beside me here which is similar to the map the gentleman from Colorado (Mr. UDALL) had just a moment ago, although we did it in red because we want to represent the statement, so we can see the meaning of a statement that was made by President Ronald Reagan in 1988. He said: ''I have a map. I wish everyone could see it. It's a map of the United States. And land owned by the government is in red, and the rest of the map is white. West of the Mississippi River, your first glance at the map, you would think the whole thing is red the government owns so much property.''

□ 1345

The government owns so much property. I do not know any place other than the Soviet Union where the government owns more land than ours does.

We have a problem. The Federal Government owns the bulk of the West. Half of California is owned by the Federal Government. Two-thirds of most of the other States in the West are owned by the Federal Government. That means we do not tax those lands, and that means that in the western United States, we pay less per child per education, but we tax our people more per family, because we are supporting the Federal Government in this environment. It is only fair that we pay a reasonable amount in lieu of taxes to cover that shortfall.

So I urge my colleagues to support this amendment to add a modest sum to the PILT, but a sum that is very, very important to the American people, those who live in these public land areas, and those who enjoy them from the rest of the country.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield the balance of my time to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I rise in reluctant opposition to this amendment, and I yield myself such time as I may consume.

While I agree that our counties would wisely use increased PILT payments, I think that this bill provides the proper funding for PILT, considering the very tight allocation the subcommittee was given. Like many of my colleagues who represent districts with large amounts of Federal lands not part of the tax base, I understand the difficulties our communities face. That is why I have always strongly supported PILT. But I believe that the $3 million increase that PILT receives in this bill compared to 2005 should be defended, considering the many other programs facing cuts.

In a healthier budget climate, I would gladly support funding PILT at an amount higher than the $230 million

contained in this bill. Unfortunately, we are facing a much bleaker budget reality.

Again, I urge a ''no'' vote on the amendment.

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

Mrs. CUBIN. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Chairman, I thank the gentlewoman from Wyoming for yielding me this time.

Mr. Chairman, I rise in support of the pending amendment, and I commend the gentlewoman from Wyoming for her leadership on this issue, as well as the gentleman from Colorado (Mr. UDALL) and the gentleman from Utah (Mr. CANNON). It is always a pleasure for me to team up with these distinguished colleagues, and especially my friend from Wyoming (Mrs. CUBIN), on natural resource issues of importance to both of our States. It is true that we are sometimes at odds with each other, that is never a pleasant experience, but when we do see eye to eye, we can make some inroads.

Today I find myself the token easterner on the bipartisan Cubin-Rahall-Cannon-Udall amendment to restore a portion of authorized funding for the PILT program. I chose to sponsor this amendment to make a point. PILT is as important in the east as it is to the west.

West Virginia, for instance, is heavily forested and 919,000 acres are federally owned with the Monongahela National Forest. PILT payments are extremely important to the forest counties, helping them to provide essential services to the public.

This amendment is about keeping faith with our units of local government who are already being strained to the limit.

Under the PILT program, the deal is that the Federal Government will compensate these localities for the loss of local tax revenues from Federal lands.

I urge support for the amendment.

Mrs. CUBIN. How much time do I have remaining, Mr. Chairman?

The Acting CHAIRMAN (Mr. SHIMKUS). The gentlewoman from Wyoming (Mrs. CUBIN) has 30 seconds remaining.

Mrs. CUBIN. Mr. Chairman, I yield 30 seconds to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, let me just read this statement. It seems the Washington Post has some sympathy for this: ''The Federal Government is the largest landowner in Washington. Since the land cannot be taxed, the Federal Government is the principal contributor to the district's chronic fiscal imbalance.''

Now, if the Federal Government owns a lot of land in the District of Columbia, believe me, Arizona, Utah, Nevada, California, Colorado, we ought to really be hurting, because the incidence of Federal land is so much higher there.

The President had initially more than $200 million for Federal land acquisition. It has been cut by the chairman down to $43 million. It is still too much, and particularly when PILT is underfunded.

Mr. SALAZAR. Mr. Chairman, I rise today to speak in favor of the Cubin-Rahall-Cannon-Udall Amendment. In 1976, Congress passed the Payment in Lieu of Taxes Act in an effort to compensate counties for the loss of property tax revenue that comes with having large tracts of Federal lands within their jurisdiction. These important funds help local governments meet the needs for schools, road construction and other infrastructure projects for their residents.

In my district alone, there are over 17 million acres of land eligible for PILT payments; accounting for $11 million in Fiscal Year 2004. In the recent past, Congress has failed to fund PILT to its authorized level, leaving local governments with the burden of answering painful budget decisions. We have seen a great discrepancy between authorized funding levels and the appropriated amounts. In FY 2004, PILT was funded to only 67 percent of its authorized level; falling over $100 million dollars short of what the Bureau of Land Management found to be the authorized level.

Mr. Chairman, this amendment will get us closer to reaching the goal of 100 percent PILT appropriation. If adopted, this Congress will fund PILT to its highest level in a decade. The bipartisan PILT Amendment would add $12 million to PILT by redirecting funds from Interior Department overhead. This will help local governments by providing approximately 80 percent of the authorized level for PILT while still allowing the Interior Department to spend $10 million more for administrative costs than in fiscal year 2005. We will provide small rural counties with the resources necessary to provide basic services to their residents.

This Congress owes it to Rural America to fully fund PILT. I ask my colleagues to support the Cubin-Rahall-Cannon-Udall Amendment to the Interior Appropriations bill.

SUMMARY BY COUNTY OF PILT PAYMENTS—COLORADO'S 3RD CONGRESSIONAL DISTRICT

[Fiscal Year 2004]

County	Payment (dollars)	Total Acres
Alamosa County	$103,015.00	77,592
Archuleta County	522,307.00	440,797
Conejos County	556,046.00	498,778
Costilla County	1,219.00	887
Custer County	224,555.00	174,173
Delta County	166,250.00	405,624
Dolores County	80,946.00	422,281
Garfield County	1,170,205.00	1,188,113
Gunnison County	311,753.00	1,636,328
Hinsdale County	72,758.00	676,515
Huerfano County	180,690.00	214,966
Jackson County	97,816.00	515,761
La Plata County	536,066.00	434,015
Las Animas County	409,384.00	316,559
Mesa County	1,606,962.00	1,563,639
Mineral County	80,427.00	524,299
Moffat County	317,051.00	1,671,738
Montezuma County	413,306.00	471,828
Montrose County	1,248,681.00	974,793
Otero County	240,480.00	181,265
Ouray County	206,790.00	157,387
Pitkin County	581,980.00	562,074
Pueblo County	86,047.00	63,174
Rio Blanco County	284,122.00	1,498.114
Rio Grande County	410,184.00	334,630
Routt County	462,772.00	665,854
Saguache County	362,613.00	1,292.699
San Juan County	40,653.00	214,353
San Miguel County	297,888.00	485,909
District Total	11,072,966.00	17,664,145

Mr. MATHESON. Mr. Chairman, I rise today in support of this bipartisan amendment, which would benefit counties and local governments in 49 States.

The Federal Government makes PILT payments to counties that have Federal lands to make up for the revenue local governments lose because they cannot collect property taxes on the Federal lands within their borders. Congress has chosen to underfund these PILT payments—leaving local governments in nearly every State with less funding for education, law enforcement, firefighting, search-and-rescue, and other services. In my congressional district alone, localities have lost over 48 million dollars in PILT funding because of inadequate appropriations by Congress over the last ten years.

The bipartisan amendment we are discussing today would bring the Federal Government's payments for PILT a bit closer to the authorized funding level, helping local governments in 49 States.

I encourage you to vote for this bipartisan amendment, which is a key step toward meeting Congress' commitment to our local governments.

Mr. OTTER. Mr. Chairman, I rise to strike the required word.

One of the greatest responsibilities of representing Idaho in Congress is convincing Members who represent other States—particularly those east of the Mississippi River—why some issues matter to us so much.

High among those issues is our unique relationship with our biggest landlord. Almost two-thirds of Idaho is federally owned, and therefore exempt from local property taxes that pay for everything from our children's schools to police and fire protection.

Picking up our Uncle Sam's slack means in the West we each pay higher property taxes and our counties are forced to make tough choices about essential public services. Counties in Idaho were shorted $75.5 million from 1995 through 2004 alone. That burden is heaviest where it can least be borne, in more rural counties with relatively small tax bases.

Since almost all the land in the East is private, States there have no such concerns. Many Members of Congress from the East, care little about how tax-exempt Federal land hurts folks in Idaho. They just don't get it.

I am extremely disappointed at the Administration's FY 06 PILT request of $200 million—a $26.8 million reduction from the FY 05 payment. PILT was funded at $200 million back in 2001 and is clearly a step backward in a commitment to compensate counties for financial burdens imposed on them through an overwhelming Federal presence.

There's no getting around the need for some of the basic services that property taxes provide on the local level, but there's no excuse for having to pay extra for the 'honor' of having so much nontaxable Federal land in our counties. The Federal Government has been a deadbeat landlord long enough.

I am very concerned that over the past ten years, the PILT program has been funded at an annual average of $155 million, while over the same time period, Federal land acquisition funding has averaged more than $347 million. Why are we buying more land when we can't make good on the commitments for the land we already have?

I applaud Chairman TAYLOR for trying to address this problem and recognize the constraints he has to work within. Mr. TAYLOR I commend you for recognizing the importance of this program and for increasing PILT up to $230 million while at the same time reducing land acquisitions to roughly $40 million.

However, I think we need to go further and zero out all land acquisitions until PILT is fully funded and the Federal Government can actually manage the land under its ownership. I would encourage everyone to vote for the Cubin, Rahall, Udall, Cannon amendment and give what is due to our rural communities.

Ms. HERSETH. Mr. Chairman, I strongly support the Cubin-Rahall-Udall amendment that seeks to increase funding to the Payment in Lieu of Taxes (PILT) program by $12 million. This would increase PILT payments to local government by redirecting funds from Interior Department administrative and overhead accounts. This amendment would bring the Federal Government's payments for PILT closer to the authorized funding level, helping local governments in 49 States, while still allowing the Interior Department to spend $10 million more for administrative costs than in fiscal year 2005. Had the House of Representatives held a recorded vote on this amendment, I would have voted to support it. As it is, the propriety of this amendment was so clear to my colleagues and me that no Member of the House of Representatives sought a recorded vote on this issue and it passed by voice vote.

Along with Interior Appropriations Subcommittee Chairman TAYLOR of North Carolina, I oppose the amendment by Mr. HEFLEY of Colorado that pertains to PILT funding. As I mentioned above, I strongly support increased PILT funding, but I am opposed to the offset that Mr. HEFLEY would use to pay for his amendment. He would pay for those increased PILT funds by reducing the allocation for the National Endowment for the Arts by $15 million. The Cubin-Rahall-Cannon-Udall uses a much preferable offset and that is why I voted to oppose the Hefley Amendment and why I voice my strong support for the Cubin-Rahall-Cannon-Udall Amendment.

The Acting CHAIRMAN. The gentleman from Washington (Mr. DICKS) still has 4 minutes remaining.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Wyoming (Mrs. CUBIN).

The amendment was agreed to.

The Acting CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–6907), $230,000,000, of which not to exceed $400,000 shall be available for administrative expenses: *Provided*, That no payment shall be made to otherwise eligible units of local government if the computed amount of the payment is less than $100.

AMENDMENT OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFLEY:

Page 45, line 16, after the first dollar amount, insert the following: ''(increased by $4,800,000)''.

Page 106, line 9, after the dollar amount, insert the following: ''(reduced by $15,000,000)''.

Mr. TAYLOR of North Carolina. Mr. Chairman, I ask unanimous consent that the debate on this amendment and any amendments thereto be limited to 10 minutes to be equally divided and controlled by the proponent and myself, the opponent.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

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

This amendment cuts $15 million from the account of the National Endowment for the Arts and applies $4.8 million to the payments in lieu of taxes account. What I wanted to do is make that equal; but it was subject to a point of order, so this is what we came up with. It would reduce the NEA account to about the level at which it had been funded for about a decade, while bringing PILT just a little bit closer to its $340 million authorization level.

Now, I want my colleagues to know that this is not an NEA-bashing amendment. The NEA I think has considerably cleaned up its act since the days of Mappelthorpe and Serrano, and the Challenge America grants program has helped return the NEA to educational outreach, the thing that it did with some success at its founding.

No, this amendment is an acknowledgment, and we have been hearing a lot about it this afternoon, but this is an acknowledgment of the need for the PILT program.

People have often said to me, you are so lucky to live in the West with all of the open space and all the public land, and I do consider myself lucky because of that. But people who do not live in the public land States do not realize sometimes that these public lands and all that open space comes at a cost. My colleagues saw the gentleman from Utah's (Mr. CANNON) map up here with the red and so forth showing the public lands. East of the Mississippi, there are a few red spots scattered around. West of the Mississippi, it is almost solid red. The West is essentially owned by the government.

For every acre under public ownership, western counties and municipalities lose part of their tax base. In Colorado, this amounts to almost 30 percent of the State's acreage. Of course, we heard earlier, this pales to the about 85 percent of the States' acreage in Nevada that is under Federal control. We have one county in Colorado, Hinsdale County, that is close to 98 percent public land. You have Lake City, the county seat, you have a mountain, and then you have the rest of Hinsdale County; and almost all of it is owned by the government. So services, as you can imagine, are limited.

Services mean fire and police and schools and health care and all kinds of things.

There are other more direct costs too. Due to Federal underfunding of its own land, local municipalities are often asked to bear the cost of road maintenance and police coverage for those areas. All of this, while operating under the diminished tax base that I mentioned earlier.

So I have always supported full funding of PILT, and I know we cannot get there this year. I do appreciate the gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Washington (Mr. DICKS) for what they have done for PILT in this bill. They have moved it forward somewhat. But since we have all this land, I think we should give us the funds we need to help take care of it.

Mr. Chairman, I urge passage of this amendment.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise to claim the time in opposition.

The Acting CHAIRMAN. The gentleman from North Carolina (Mr. TAYLOR) is recognized for 5 minutes in opposition to the amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in opposition to this amendment, recognizing the very serious problems that its proponent seeks to address. But it would be very unwise to cut the budget of the NEA, especially after we succeeded in adding a little money back to it, because the NEA is simply doing a fantastic job now of strengthening public arts education, of strengthening arts institutions, and of helping arts institutions to market themselves and strengthen the economies of not only our inner cities, but small, rural communities. So in Connecticut, the NEA, in conjunction with the Connecticut Commission on the Arts, has really helped us develop the itineraries that we needed to attract tourism to the small towns with arts institutions or performing groups where the agricultural economy is failing.

In our schools, the HOT schools, (the Higher Order of Thinking schools), have been supported by the NEA, and have helped children understand that not only thinking is a powerful process, but original thinking is an extraordinary process children can possess and use to grow in mind and spirit, as well as technical capability.

In 139 of Connecticut's schools, they are using the NEA's Shakespeare in American Communities, a free educational kit that really helps kids grasp the power of Shakespeare. Who better can teach children about the horrendous power of greed to do evil and the tremendous opportunity of love to do good.

So the arts are extremely important to the spiritual strength of this Nation, the strength of its economy, and the health and well-being of our children, for the arts provide the power to aspire to new heights of greatness in each of us.

So I must oppose this amendment, because it drains resources from the National Endowment for the Arts.

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

I think it is interesting that the gentlewoman is from Connecticut. If my colleagues remember that map, public lands are insignificant in Connecticut by comparison with States in the west where we have up to 85 or 90 percent of the land owned by the government.

I said at the outset that this is not an NEA-bashing amendment. The NEA does many good things; but we only have so much money, and the committee knows that is the case. They are the ones that had to struggle with the allocation they got and they had to make tough, tough choices. When you have to make choices, I think you need to ask yourself the question, NEA, as good as it is in some areas, is it better than having the funds to educate your children in many of those western States? Is it better than having the funds to provide fire protection, to provide police protection, to take care of those public lands that are out there? Which is better? We have to weigh it and balance it.

The gentleman from Washington (Mr. DICKS) said a while ago that he thought they had a pretty good balance. I think that if you are making these choices, the balance needs to lean a little bit more to the PILT.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

The amendment increases payments in lieu of taxes $4.8 million and reduces the National Endowment for the Arts by $15 million. This Interior bill is a balanced bill. In developing this bill, the committee made a number of difficult choices. If we had additional resources, I believe PILT would be a deserving program, as we have said over and over again here today. But to unbalance this bill at this time, I must rise in opposition. I encourage my colleagues to do the same thing.

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

Mr. HEFLEY. Mr. Chairman, I would just encourage an ''aye'' vote on this amendment.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. HEFLEY. 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 Colorado (Mr. HEFLEY) will be postponed.

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Mr. SWEENEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to engage the chairman of the Interior Subcommittee in a colloquy dealing with some language in the committee report requiring the EPA to fund a National Academy of Science study.

Mr. Chairman, we have already heard that there is language requiring such a study to determine the effectiveness and cost of a large dredging operation of hazardous waste sites, many of which are contaminated with PCBs.

I would point out that our colleague, the gentleman from New York (Mr. HINCHEY), who engaged in a colloquy a little earlier, stated that there was strong support for this project. Well, this is a project that has been debated for 20 years. In some ways that is an overstatement of that support.

I represent the affected area, and in fact it has been an extremely difficult process for my constituents. However, we all agree that further delay of the project is in no one's best interest. As you have already clarified, the report language, Mr. Chairman, in no way is intended to delay, stop or otherwise disrupt the cleanup planned for the Hudson River slated to begin in the summer of 12006.

Further, the EPA has reviewed the language and found no provision that would require them to disrupt the Hudson River project in any way. Is that your understanding, Mr. Chairman?

Mr. TAYLOR of North Carolina. The gentleman is correct. In no way should this study delay or disrupt either phase 1 or 2 of the planned cleanup of the Hudson River, any other ongoing Superfund site, And I know of no party involved that wishes that delay.

I will work with the gentleman to consider whether modifications to the language are needed to further clarify this point.

Mr. SWEENEY. Mr. Chairman, I thank you for that kind offer and clarification. Let me just say that it has long been my position that we should not debate past decisions no the Hudson River but look to the future in the region and focus on protecting those communities most directly affected by the cleanup project.

What has been consistently overlooked is the fact that dredging will have a heavy impact on people's everyday lives. This is especially true for the residents of Fort Edward, New York, who will be hosting the dewatering site in their community.

As the representative of that area, I want to continue to strive to uphold their interests and remind others that we are talking about real people and real neighborhoods, and not just political points for some special interest groups.

For that reason, I want to thank you for a separate report language provision which was inserted at my request to address the burden the Hudson River cleanup project is placing on the people of Fort Edwards and reiterate my concern that the EPA do all it can to provide assistance to the town.

It is my hope that we can jointly work towards that end and meet that important goal as the appropriation process continues.

Mr. TAYLOR of North Carolina. I thank the gentleman from New York (Mr. SWEENEY) for his good work on the Hudson River cleanup and for bringing the need for clarification of the intent of the study to my attention. I like forward to working with the gentleman and learning more about Port Edwards' needs.

Mr FARR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage in a brief colloquy, if you will, on the subject of the proposed USGS laboratory in Santa Cruz, California.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. FARR. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I would be happy to discuss this matter with the gentleman from California (Mr. FARR).

Mr. FARR. Mr. Chairman, as the chairman is aware, I have raised concerns about the plans to build a new USGS laboratory in Santa Cruz. Actually I am thrilled to have USGS moving into my district, but the USGS will benefit greatly from the synergy of other local marine science facilities in the area, including the University of California's Long Marine Lab and the United States Government's National Marine Fisheries Service Lab.

With USGS collocated near these other facilities, I believe the United States will have the best marine science information anywhere. But in the development of the plans for the lab, we run into contradictory budget numbers and laboratory configurations that have dogged final approval for getting this project off the ground, and it has really been a problem. And I appreciate your consideration of being willing to work with me to facilitate the meeting of the principals involved in this project and resolve some of these questions once and for all.

Mr. TAYLOR of North Carolina. I understand the gentleman's concern over this issue, and appreciate his desire to see the facility built. I would be pleased to assist in a meeting with the gentleman and agency officials on this matter.

I thank the gentleman for his commitment to this issue.

Ms. BORDALLO. Mr. Chairman, I move to strike the last work for the purpose of entering into a colloquy with the gentleman from North Carolina (Chairman TAYLOR) regarding urgent construction and maintenance needs for the War in the Pacific National Historically Park in Guam.

Mr. Chairman, my district, Guam, is home to a unique national park. The War in the Pacific National Historical Park was established by an act of Congress in 1978. It is the only site in the National Park System that honors the bravery and sacrifices of all of those who participated in the Pacific theater of World War II.

Among the seven units of park and its features is a memorial wall at the

Asan Bay Overlook as that preserves and honors for perpetuity the 1,642 names of Chamorro and American casualties who suffered or died during the war in Guam.

The memorial wall was authorized by an act of Congress in 1993 and today is in dire need of repair and restoration. Mr. Chairman, my home island of Guam, as many of my colleagues know, is vulnerable to tropical intense weather conditions.

In December of 2003, one of the most powerful typhoons to ever strike hit Guam with over 200-mile per hour wind gusts. Many elements of the park were casualties of this storm. In the aftermath of Supertyhpoon Pongsona, the service was forced to close the Park Visitors Center, which had been leased for several years and which has not yet been reopened or replaced. The memorial wall, in particular, has suffered since it was originally constructed and has deteriorated to unacceptable conditions.

We are now commemorating the 60th anniversary of the War in the Pacific, and the need to repair and restore this memorial wall deserves the support of the service and this Congress. Of a more long term but just as deserving a need is the construction of an appropriate contact facility for the park to provide for the visitor experience and the interpretation of the war.

Mr. Chairman, I am extremely disappointed that the service's budget request failed again this year to adequately take into account these needs. It is my hope that these projects, particularly the memorial wall, will receive greater attention and higher priority from the service as they allocate discretionary funds in fiscal year 2006 as they prepare the fiscal year 2007 and future budget requests.

I would appreciate the help of the gentleman from North Carolina (Chairman TAYLOR) and the gentleman from Washington (Mr. DICKS) in ensuring that the service budgets appropriately for the needs of the War in the Pacific National Historic Park.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentlewoman yield?

Ms. BORDALLO. I yield to the distinguished gentleman from North Carolina.

Mr. TAYLOR of North Carolina. I thank the gentlewoman from Guam (Ms. BORDALLO) for raising the budget issues. The committee recognizes the uniqueness and development needs of the War in the Pacific National Historical Park in Guam.

We will work with the National Park Service to remedy this situation. I thank the gentlelady for her efforts and look forward to continuing to work with her on this matter in the future.

Ms. BORDALLO. Mr. Chairman, I thank the gentleman for his commitment to the National Park Service and for his comments and concerns regarding the War in the Pacific National Historical Park in Guam. I look forward to continuing to work with the gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Washington (Mr. DICKS) to address this serious situation.

The Acting CHAIRMAN (Mr. SHIMKUS). The Clerk will read.

The Clerk read as follows:

CENTRAL HAZARDOUS MATERIALS FUND

For necessary expenses of the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), $9,855,000, to remain available until expended: *Provided*, That, notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to section 107 or 113(f) of such Act, shall be credited to this account, to be available until expended without further appropriation: *Provided further*, That such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary and which shall be credited to this account.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $55,340,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $39,566,000.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

For the operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, $191,593,000, to remain available until expended, of which not to exceed $58,000,000 from this or any other Act, shall be available for historical accounting: *Provided*, That funds for trust management improvements and litigation support may, as needed, be transferred to or merged with the Bureau of Indian Affairs, ''Operation of Indian Programs'' account; the Office of the Solicitor, ''Salaries and Expenses'' account; and the Departmental Management, ''Salaries and Expenses'' account: *Provided further*, That funds made available to Tribes and Tribal organizations through contracts or grants obligated during fiscal year 2006, as authorized by the Indian Self-Determination Act of 1975 (25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: *Provided further*, That, notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of the enactment of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with an accounting of such funds from which the beneficiary can determine whether there has been a loss: *Provided further*, That, notwithstanding any other provision of law, the Secretary shall not be required to provide a quarterly statement of performance for any Indian trust account that has not had activity for at least 18 months and has a balance of $1.00 or less: *Provided further*, That the Secretary shall issue an annual account statement and maintain a record of any such accounts and shall permit the balance in each such account to be withdrawn upon the express written request of the account holder: *Provided further*, That not to exceed $50,000 is available for the Secretary to make payments to correct administrative errors of either disbursements from or deposits to Individual Indian Money or Tribal accounts after September 30, 2002: *Provided further*, That erroneous payments that are recovered shall be credited to and remain available in this account for this purpose.

INDIAN LAND CONSOLIDATION

For consolidation of fractional interests in Indian lands and expenses associated with redetermining and redistributing escheated interests in allotted lands, and for necessary expenses to carry out the Indian Land Consolidation Act of 1983, as amended, by direct expenditure or cooperative agreement, $34,514,000, to remain available until expended, and which may be transferred to the Bureau of Indian Affairs and Departmental Management accounts: *Provided*, That funds provided under this heading may be expended pursuant to the authorities contained in the provisos under the heading ''Office of Special Trustee for American Indians, Indian Land Consolidation'' of the Interior and Related Agencies Appropriations Act, 2001 (Public Law 106–291).

NATURAL RESOURCES DAMAGE ASSESSMENT AND RESTORATION

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment and restoration activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), the Oil Pollution Act of 1990 (Public Law 101–380) (33 U.S.C. 2701 et seq.), and Public Law 101–337, as amended (16 U.S.C. 19jj et seq.), $6,106,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided*, That existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: *Provided further*, That no programs funded with appropriated funds in the ''Departmental Management'', ''Office of the Solicitor'', and ''Office of Inspector General'' may be augmented through the Working Capital Fund: *Provided further*, That the annual budget justification for Departmental Management shall describe estimated Working Capital Fund charges to bureaus and offices, including the methodology on which charges are based: *Provided further*, That departures from the Working Capital Fund estimates contained in the Departmental Management budget justification shall be presented to the Committees on Appropriations for approval: *Provided further*, That the Secretary shall provide a semi-annual report to the Committees on Appropriations on reimbursable support agreements between the Office of the Secretary and the National Business Center and the bureaus and offices of the Department, including the amounts billed pursuant to such agreements.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency

reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted, and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of wildland fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oil spills; for response and natural resource damage assessment activities related to actual oil spills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99–198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for wildland fire operations shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for wildland fire operations, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That for wildland fire operations, no funds shall be made available under this authority until the Secretary determines that funds appropriated for ''wildland fire operations'' shall be exhausted within 30 days, and must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further*, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 104. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore preleasing, leasing and related activities placed under restriction in the President's moratorium statement of June 12, 1998, in the areas of northern, central, and southern California; the North Atlantic; Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

AMENDMENTS OFFERED BY MR. PETERSON OF PENNSYLVANIA

Mr. PETERSON of Pennsylvania. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. PETERSON of Pennsylvania:

Page 53, line 12, insert ''oil'' after ''offshore''.

Page 53, line 20, strike ''and natural gas'' .

Page 54, line 3, strike ''and natural gas''.

The Acting CHAIRMAN. Is there objection to the consideration of the amendments en bloc?

There was no objection.

The Acting CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. PETERSON) for 5 minutes.

Mr. TAYLOR of North Carolina. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 20 minutes, 10 minutes to the proponent and 10 minutes to an opponent, myself.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment will remove the words ''natural gas'' from the moratorium that has been in every Interior bill, I am told, for 20 some years, unbeknownst to many Members of this Congress, that prohibits the Department of Interior from leasing or subleasing lands on the Outer Continental Shelf, our greatest reserve for natural gas.

The number one economic challenge facing America was not addressed in our energy bill, in my view and the view of many, because we did not adequately deal with the clean fuel, the fuel that has no NO_X, no SO_X, the least CO_2, the clean-burning fuel, natural gas, that can be our bridge to the future.

It is threatening home ownership, folks. 76 percent increase in oil prices, 176 percent increase in natural gas prices. Here is what one of our leading employer group says: America has a new energy crisis. This time it is the runaway price of natural gas.

Congress must act now to ease the natural gas crisis of this Nation's fragile economic recovery, or it will return to recession. Every recession since World War II has been preceded by a run-up in energy prices and none of the run-up in prices have equaled the run-up in natural gas prices.

It is threatening small business. It is the fastest increase in the cost of education. It is the fastest increase in the cost of our hospital health care. It is the greatest threat to our farm community with exploding fertilizer costs. And because fertilizer factories use so much natural gas, 21 of them have quit making fertilizer in America, and all of them are looking offshore to produce fertilizer. Ninety thousand chemical jobs, some of the best paying jobs in the industrial sector we have left. Polymers and plastics are all looking to move offshore.

The production of natural gas on the Outer Continental Shelf is not looked at as an environmental threat by Canada, they sell us gas that they produce, the UK, Norway, Australia, New Zealand, all countries with environmental records. Eighty-five percent of our gas reserves are locked up by moratorium.

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Why? It is the clean fuel. As I said before, no docks, CO_2 one-fourth as much. It is the bridge to hydrogen. It could be bridging us in the transportation field like school buses, transportation systems, taxicabs, delivery trucks, easily changeable to natural gas if it was affordable and we had adequate supply.

Natural gas is 25 percent of our energy use today. If we had an adequate supply, it could be the friendly bridge, the environmentally friendly bridge, to lead us to hydrogen, give us time for stronger conservation measures, growing use of renewables and less dependence on oil today.

A gas well is not an environmental threat. It is a 6-inch hole that is cemented at the top and cemented at the bottom with a steel casing, and it lets gas out. Canada produces in our Great Lakes and sells the gas to us with no environmental impact.

When we look at this map, and this is my concluding comment, the natural gas and oil, when we buy $50 oil, the whole world buys $50 oil; but in natural gas we are at $7. Europe is at $5-something. Japan and China are 4-something, and then we look at a dollar, 90 cents in Russia. Where are industries going to grow? They are not going to grow here.

This is the most important amendment we will consider, in my view, in this part of Congress. Natural gas is a tragedy happening, and we can stop it by lifting the moratorium.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield my 10 minutes to the gentleman from Florida (Mr. YOUNG) and ask unanimous consent that he control the 10 minutes of time.

The Acting CHAIRMAN (Mr. SHIMKUS). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. DICKS. Mr. Chairman, I would like to have some time on this side, if we could have 5 minutes of the 10 minutes, if we could work that out.

Mr. YOUNG of Florida. Mr. Chairman, is the gentleman in opposition to this amendment?

Mr. DICKS. Yes, I am in opposition.

Mr. YOUNG of Florida. Mr. Chairman, we appreciate that. We have only

a total of 10 minutes to state our opposition. So how about 4 minutes?

Mr. DICKS. Four minutes would be fine.

Mr. YOUNG of Florida. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. DICKS) for the purposes of control.

The Acting CHAIRMAN. Without objection, the gentleman from Washington (Mr. DICKS) will control 4 minutes.

There was no objection.

Mr. YOUNG of Florida. Mr. Chairman, I yield myself 3 minutes, and despite the eloquence of the gentleman from Pennsylvania (Mr. PETERSON), my friend, who makes this amendment sound really attractive, I must rise and express the objection of the Committee on Appropriations to this amendment.

This amendment is no better than the amendment offered in full committee which would have taken $50 million from very important environmental protection issues and transfer it to this fund to create an inventory of gas and oil. The fact of the matter is, we cannot afford to remove the environmental protection in this bill, and we do not need the inventory that the gentleman from Pennsylvania (Mr. PETERSON) talks about. This amendment opens all coasts to new drilling.

The oil companies, the energy companies, the gas companies themselves already have this inventory, as does the Minerals Management Service at the Department of the Interior. We already know about this.

The truth of the matter is, this would just be a raid on the environmental issues to fund something that does not need to be done.

The committee is opposed to this. The Committee on Energy and Commerce have debated this in the past, have rejected similar amendments; and I hope that we will do the same thing today, that we will reject this particular amendment.

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

Mr. DICKS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. CAPPS).

(Mrs. CAPPS asked and was given permission to revise and extend her remarks.)

Mrs. CAPPS. Mr. Chairman, I thank the gentleman for the time.

Mr. Chairman, I rise in strong opposition to the Peterson amendment. This amendment guts the long-standing bipartisan moratorium that currently protects the Nation's most sensitive coastal and marine areas, areas including California, Florida, the eastern Gulf of Mexico, the Pacific Northwest, New England, and the entire Atlantic coast. It is completely unnecessary.

Proponents say that we need to drill offshore to put an end to the high energy prices. The only problem with this argument is that the moratoria are not where the resources are.

MMS released its latest OCS resources survey just last year. Eighty-one percent of the undiscovered, uneconomically recoverable natural gas in the OCS is located in the central and western Gulf of Mexico where drilling is currently allowed and under way.

This amendment means drilling in the coastal areas of the United States where there is not a whole lot of gas and oil, where tens of millions of our citizens have made it clear they do not want any more gas drilling, and it means gutting the Presidential-congressional moratoria that had been in for decades, reaffirmed by Presidents George H.W. Bush, Clinton, George Bush, every Congress since 1982. State officials have also endorsed the moratoria, including Governor Bush, Governor Schwarzenegger.

This House has voted three times in recent years to stop the oil drilling in waters off Florida, California, and the entire OCS. I urge my colleagues to defeat this amendment.

Mr. Chairman, I rise in strong opposition to the Peterson amendment. This amendment would gut the longstanding, bipartisan moratorium that currently protects some of the Nation's most sensitive coastal and marine areas. These moratoria areas include California, Florida and the Eastern Gulf of Mexico, Oregon, Washington, New England, and the entire Atlantic Coast. This amendment is an attack on the moratorium, and an attack on the rights of coastal States and local governments to raise legitimate objections to offshore development that affects their coastlines.

Mr. Chairman, this amendment is a bad idea for a number of reasons, not least because it is completely unnecessary. Proponents of the amendment say that we need to drill offshore to put an end to high energy prices. The only problem with this argument is the moratoria areas aren't where the resources are. The Minerals Management Service conducts a resources survey every five years. The latest comprehensive analysis assessment was finished in 2003. This assessment includes estimates of undiscovered oil and natural gas that is conventionally and economically recoverable.

We already know, for instance, that 81 percent of the Nation's undiscovered, economically recoverable natural gas on the OCS is located in the Central and Western Gulf of Mexico—where drilling is currently allowed and underway.

The amendment would mean drilling in coastal areas of the United States where there isn't a whole lot of oil and gas and where tens of millions of our citizens have made it clear that they don't want any more drilling.

Mr. Chairman, a little history might be in order here. In 1990, President George H.W. Bush announced an executive moratorium ending new drilling off California, Oregon, Washington, Florida and the entire East Coast. President Clinton extended it to 2012. Both actions were met with widespread acclaim by a public that knows how valuable—environmentally and economically—our coastlines are. And, of course, Congress has supported these actions for the last 20 years by restricting MMS from spending funds to support any new drilling or pre-drilling activities in these areas.

In addition, President George W. Bush endorsed both moratoria in his FY 06 budget. State officials—including Florida Governor Jeb Bush and California Governor Arnold Schwarzenegger—have endorsed the moratoria. And, the House of Representatives has voted three times in recent years to stop new drilling in the waters off Florida, California and the entire Outer Continental Shelf. This amendment is bad policy and reflects the misguided attempt to try and drill our way out of energy problems.

Mr. Chairman, the United States has 3 percent of the known resources but we account for 25 percent of demand. Despoiling all of our coastal areas in the fruitless search for "energy independence" isn't going to work. Coastal communities continue to speak—in strong bipartisan voices—to protect their State's sensitive coastal resources and productive coastal economies. They are too economically valuable to risk with more drilling. It takes only one accident or spill to devastate the local marine environment and economy.

Mr. PETERSON suggests that his amendment would be limited to exploration for natural gas only, and that this approach would somehow avoid the risks of offshore oil drilling. There are serious flaws with this theory. There is virtually no way to explore only for natural gas without exploring for oil.

Moreover, natural gas development also has substantial and long-lasting impacts, including noise, water and air pollution. And it impacts the tourism and fishing industries.

Mr. Chairman, last Congress, 56 Republicans and 172 Democrats voted to protect the OCS Moratorium. In that vote, the House demonstrated its commitment to protecting our vital coastal communities. A vote against this amendment is the same thing—a vote to protect coastal areas from new drilling. We need to reject these attempts to weaken existing protections for our coastal waters.

I urge my colleagues to oppose this amendment.

ASSESSMENT OF UNDISCOVERED TECHNICALLY RECOVERABLE OIL AND GAS RESOURCES OF THE NATION'S OUTER CONTINENTAL SHELF, 2003 UPDATE

Using a play-based assessment methodology, the Minerals Management Service estimated a mean of 76.0 billion barrels of undiscovered recoverable oil and a mean of 406.1 trillion cubic feet of undiscovered recoverable natural gas in the Federal Outer Continental Shelf of the United States.

INTRODUCTION

This assessment represents an update of selected basins of the Federal Outer Continental Shelf (OCS). Assessments of the entire OCS were made by the Minerals Management Service (MMS) in 1995 and 2000 (MMS, 1996 and MMS, 2001). The next MMS assessment of the entire OCS is scheduled for completion in mid 2005. Areas selected for this update included those where significant new discoveries were made, such as parts of the Gulf of Mexico, and areas where new geological concepts have been developed, such as the Atlantic OCS margin and the North Aleutian Basin of Alaska. Results from this selective update were combined with the year 2000 assessment results from other areas to yield the regional totals presented here.

The MMS utilizes a probabilistic play-based approach to estimate the undiscovered technically recoverable resources (UTRR) of oil and gas for individual plays. This methodology is suitable for both conceptual plays where there is little or no specific information available, and for developed plays where

there are discovered oil and gas fields and considerable information is available. After estimation, individual play results are aggregated to larger areas such as basins and regions.

This assessment is limited to technically recoverable undiscovered resources of oil and gas. Unlike MMS's 1995 and 2000 assessments, it does not contain economic analyses of what portion of these technically recoverable resources are commercially viable.

RESOURCE SUMMARY

The MMS estimated that 76.0 billion barrels of oil and 406.1 trillion of cubic feet of gas are technically recoverable from the U.S. Federal OCS. These results are presented by area in table 1, which lists mean values as wells as the 95th and 5th percentile values representing high and low probability cases, respectively. Greater range between the high and low values indicated higher uncertainty in the estimates.

These values represent a 1 percent increase in oil resources and a 12.1 percent increase in gas resources when compared with MMS's 2000 assessment. The increases are due to changes in the assessments of the Atlantic and Gulf of Mexico OCS areas. Both the Alaska and Pacific OCS area resource estimates are essentially unchanged from 2000. The increases also account for the approximately 2 Bbbl oil and 8 Tcfg that were discovered and moved to the reserves category during this time period.

TABLE 1.—UNDISCOVERED TECHNICALLY RECOVERABLE RESOURCES OF THE OCS

	Undiscovered technically recoverable resources								
	UTRR oil (Bbbl)			UTRR gas (Tcf)			UTRR BOE (Bbbl)		
	F95	Mean	F5	F95	Mean	F5	F95	Mean	F5
Alaska OCS	16.6	25.1	35.9	54.6	122.1	226.2	28.0	46.9	72.1
Atlantic OCS	1.9	3.5	5.3	19.8	33.3	50.6	5.4	9.4	14.3
Gulf of Mexico OCS	31.5	36.9	44.0	208.9	232.5	267.6	68.7	78.3	91.6
Pacific OCS	4.4	10.5	21.8	7.4	18.2	38.2	5.7	13.7	28.6
Total OCS	62.1	76.0	93.0	326.2	406.1	520.0	122.0	148.3	180.4

(Bbbl, billion barrels of oil, Tcf, trillion cubic of gas. F95 indicates a 95 percent chance of at least the amount listed, F5 indicates a 5 percent chance of at least the amount listed. Only mean values are additive.)

In the Atlantic OCS area significant new knowledge and information was gained as a result of recent drilling in the Scotian basin offshore Canada. Applying this new information led to adjustments to risks applied to previous defined plays, and to the definition of new plays resulting in increased estimates for oil and gas UTRR of 52 percent and 19 percent respectively over MMS's 2000 study. Gulf of Mexico OCS oil resources have remained flat while gas resources have increased by over 20 percent relative to MMS's 2000 study. This increase is attributed primarily to plays in the deep shelf areas of the Central and Western Gulf of Mexico, and to the Eastern Gulf of Mexico. Results of new drilling and discoveries led to revisions of plays and their associated risks that significantly increased gas resources. This is especially true for conceptual plays where valuable insights into the presence of source rock, maturation, migration, trapping, and reservoir facies were gained.

REFERENCES

Minerals Management Service (MMS), 1996: An Assessment of the Undiscovered Hydrocarbon Potential of the Nation's Outer Continental Shelf, OCS Report MMS 96–0034.

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Mr. YOUNG of Florida. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I would like to associate my comments with the gentlewoman from California (Mrs. CAPPS).

The proponents of this say that it is oil and gas. We are not talking oil. If you want to poke a hole in the ground in Oklahoma or you want to do it in land or even in ANWR, where they have the technology not to cause the spills, that is fine. I will support you, or clean coal, I will support you.

I understand the plight the farmers have with the cost of natural gas and the fertilizer problem that they have. I will work with the gentleman on that as well.

They say, well, let us do it in the Gulf of Mexico, so we are going to do to Mexicans what we want to do for us? If you poke a hole in the Earth, you are going to get oil up. I do not know if you have ever come to Long Beach, you better bring kerosene with you if you go on our beaches. Because you take your dog or you walk along those beaches, the bottom of your feet are solid oil. You go poking holes in that, the economy of California is critical to tourism.

We have the best beaches, better than Washington State. We have the best weather, and we invite you to come spend your money in California, but you are not going to come if we start poking holes in the bottom of the Pacific along the coast as the gentlewoman from California (Mrs. CAPPS) says.

I know the heart and the effort of the gentleman that is offering this amendment, and I know why he is doing it and I empathize with him, but it would destroy the California economy and environment as well as our beaches.

We have got beautiful lagoons. We have got the most beautiful lagoons in the world, and wetlands. I am not an extreme environmentalist, but those are, no kidding, true wetlands; and the National Academy of Science says whether you are drilling for oil or gas off the California coast, you are going to, not maybe, you are going to hurt the wildlife, you are going to destroy those lagoons, and then we are going to end up like Long Beach with oil all over our beaches and hurt our economy.

So I oppose the gentleman's amendment.

Mr. DICKS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY) who also cares deeply about this issue.

Ms. WOOLSEY. Mr. Chairman, actually, it sounds like the author of this amendment does not quite understand the need to preserve our beautiful coastline.

The coast of Marin and Sonoma counties, my district, is one of the most biologically productive regions in the world. While it comprises only 1 percent of the ocean, it is home to 20 percent of the world's fish.

The coastal estuaries are important passages for endangered salmon, steelhead, essential haulouts for seals and sea lions, and prolific nurseries for hundreds of aquatic species.

The coastal communities in my district rely on tourism and the fishing industry that could be severely hurt if offshore oil drilling and gas drilling were permitted off our coasts.

The people who live in my district do not and will not support offshore drilling. They realize that we need an energy policy that focuses on investments in energy efficiency and renewable energy sources, not oil rigs, not an endless depletion of our natural resources.

Mr. Chairman, here we go again. For some reason, the Majority Party feels that if we just keep drilling for more gas then our emergency crisis will be over. Unfortunately, they aren't looking for a solution to our energy crisis and rising gas prices, instead, they are looking to line the pockets of big oil companies by supporting offshore oil drillings.

Let's not forget the irrevocable damage to our environment that offshore drilling causes. This devastation can be seen in the Gulf of Mexico where OCS pipelines crossing coastal wetlands are estimated to have destroyed more coastal sale marsh than can be found in the stretch of coastal land running from New Jersey through Maine.

It sounds like the author of this amendment doesn't understand the need to preserve our beautiful coastlines.

But, the people that I am so fortunate to represent in Marin and Sonoma counties do understand. They get it.

The coast of Marin and Sonoma County in my district is one of the most biologically productive regions in the world.

While it compromises only one percent of the ocean, it is home to 20 percent of the world's fish. The coastal estuaries are important passages for endangered salmon and steelhead, essential haulouts for seals and sea lions, and prolific nurseries for hundreds of aquatic species.

The coastal communities in my District rely on tourism and fishing—industries that could be severely hurt if offshore drilling was permitted off of our coast. If you were to visit this

beautiful stretch of coast, you would understand why the people who live in my district don't and won't support offshore drilling. They realize that we need an energy policy that focuses on investments in energy efficiency and renewable energy source, not oilrigs and the endless depletion of our natural resources.

Mr. Chairman, I urge my colleagues to join me in opposing the Peterson amendment.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Chairman, I am here to support the long overdue Peterson amendment.

I come from Florida. We will not hear a lot of folks talk about this. It is a hot political issue. All of us are equally concerned about preserving the environment.

Since my days in the legislature, I have always supported the safe and environmentally sound development and exploration of natural gas off the coast of Florida. I helped participate in the development of the section 181 prohibitions. I oppose oil drilling. We can safely extract natural gas.

For all of the 1990s, and many of my colleagues were here, our policy was to convert coal and oil-generating plants to natural gas, and we have done that in over 30 of our plants in Florida, and we have got more coming online.

My colleagues saw that we pay just about double the price. This not-in-my-backyard does not cut it. We can keep it offshore, but we can still do it soundly and safely.

I support the amendment.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. DICKS. Mr. Chairman, could the Chair give us a breakdown of the time.

The Acting CHAIRMAN. The gentleman from Washington State (Mr. DICKS) has 2 minutes remaining. The gentleman from Pennsylvania (Mr. PETERSON) has 5 minutes remaining before yielding, and the gentleman from Florida (Mr. YOUNG) has 3 minutes remaining.

The gentleman from Hawaii (Mr. ABERCROMBIE) is recognized.

Mr. ABERCROMBIE. Mr. Chairman, I want to speak in favor of this.

I have spent 15 years here trying to develop alternative sources of energy so we are not victimized by oil. We have a safe extractive method here with natural gas. We have encouraged it. We want to get to alternative energies. This is one of the alternative energies, and it has a direct effect on the working people of this country.

I will tell my colleagues, I think this is a jobs issue. This is a blue collar issue. This is a family issue in terms of bringing down prices and getting a safe supply of fuel for this country. If we do not get into this kind of alternative, we are going to be struck forever in rhetoric and not being able to produce for our people, not just fuel but produce it in a way that is truly alternative and within the bounds of people's budgets.

That is why we need to support this amendment.

Mr. YOUNG of Florida. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me this time, and I stand in vigorous opposition to this amendment or any amendment similar to this.

The point has been made that you can drill for gas safely. When you start drilling, you do not know what you are going to get. You do not know whether you are going to get gas or oil, and the environmental problems here are immense.

Thanks to the gentleman from Florida (Mr. YOUNG), we have had this moratorium in place since 1983. We need to leave it in place. The environmental studies and testimony that would be required in order to negate any chance of pollution must be gone through before this House ever considers such a bill.

So I would urge all the Members to vote against lifting this moratorium. It is reckless. It is reckless to the environment of Florida. It is a bad environmental vote, and I recommend its defeat.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Chairman, I thank the gentleman for the time.

It seems like there is quite a bit of discrepancy here in our information. Many of us believe that natural gas can be extracted without endangering the environment. I happen to be on that side of the issue.

We have continually increased our emphasis and our dependence on natural gas, and yet our supply has remained stagnant. We have tried to put in the pipeline from Alaska. That has been stalled.

Currently, we are paying 600 percent more for natural gas than many other nations in the world. Those living on fixed incomes are being eaten up by these costs.

In the area of agriculture, we find that pumping fuel is 20 percent higher this year. We are going to need 10 to 12 cents more per bushel of grain in order to offset the increasing cost of gas and fertilizer. This is the margin that most farmers rely on. That puts them into an unprofitable situation.

So I rise in support of this amendment. I believe it can be done in an environmentally safe and sensitive way, and it does make sense.

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Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Chairman, hard-working American families are paying a high price at the gas pump today because of our Nation's dependence upon foreign energy. Every day high gasoline prices are hurting good, decent hard-working families who are having to cut back on their purchases of food, medicine, and clothes. High natural gas prices are hurting our Nation's businesses, who are laying off families and breadwinners.

This is simply about supporting an amendment that will provide environmentally safe and sound production of natural gas off the eastern Gulf Coast, something we are already doing off the Texas and the Louisiana coast. And to my friend, the gentleman from California (Mr. CUNNINGHAM), I have walked on Texas beaches since I was 2 years old and have yet to end up with black-bottom feet because of oil on our beaches.

Mr. Chairman, this can be done in a positive way. But most importantly we need to send a message to the OPEC nations that we are tired of a handful of OPEC oil ministers putting their hands around the necks of family budgets and businesses here in America.

Mr. YOUNG of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

We hear a lot of conversation today here on the floor about national security and not depending upon foreign sources of oil and gas. Let me just say that this particular issue is in fact a national security issue.

Most of the focus we hear, obviously, is on the potential environmental impacts and impacts on tourism and all of the environmental things we enjoy along our coasts in Florida and in California. But let me just say that the biggest impact that could happen with oil and natural gas, drilling or exploration in the eastern Gulf of Mexico is a potential to harm our ability to test and evaluate all of the Air Force weaponry that is used around the globe.

In fact, let me read a quote to you. ''Wilbert Patterson, Brigadier General, United States Air Force, June of 2000. We are deeply concerned over the construction of any oil or gas structures that could impact on our critical test programs performed by the Air Armament Center at Eglin Air Force Base.''

This is an issue of national security. We have to be able to test in the Gulf ranges and this drilling will harm that testing.

Mr. DICKS. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. DAVIS), who is deeply concerned about this issue, as well as his colleagues from California.

Mr. DAVIS of Florida. Mr. Chairman, I rise in opposition to this amendment. The argument that has been made in support of the amendment is that the price of natural gas is increased to the consumer. And we should address this as a Congress. But one of the points that has been overlooked here today is that this Congress passed an energy bill that provided initial financial incentives to drill in the central and

western gulf, and that is a valid attempt by this Congress to address this issue.

But to open up the eastern Gulf of Mexico would be a terrible mistake. There is a very small proportion available, and what is available is right off the coast of Florida. It has been suggested Florida should follow the standards of Texas with respect to our beaches. The beaches in Florida are a pristine treasure not to be experimented with.

The truth of the matter is nobody here on the floor of the House knows what the risk is if you drill. This amendment may say gas, but it is about gas and oil. Because once you start drilling, you get what you get when you drill. So we should not sacrifice or risk the Florida beaches or the California beaches to get a small proportion of gas that can be more easily achieved, and which this Congress is promoting through deepwater drilling in the central and western coast.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 30 seconds to the gentleman from Texas (Mr. GENE GREEN).

(Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Chairman, opening up the Offshore Continental Shelf will save $300 billion in natural gas costs over 20 years for our consumers and manufacturers. It is not just for businesses, but to heat and cool our homes we use natural gas. If we do not explore and produce off our potential, whether it be California, the eastern Gulf of Mexico, or anywhere else, we are going to continue to be held up by the world price. Our consumers will pay for it.

Mr. Chairman, I like the beaches in Texas, I like them in Florida and California, but I also know we need to use our natural resources.

Supply and demand for energy is out of whack and our Nation needs more energy. The Federal Government tried to mandate demand reduction in the last energy crisis and it contributed to a nationwide recession we do not want to repeat.

A recent Gallup poll found that half of family budgets have been seriously affected by the recent rise in energy prices.

Opening the OCS could save $300 billion in natural gas costs over 20 years, for consumers and manufacturers. High natural gas costs are sending manufacturing jobs overseas, following the cheap gas.

Environmentally conscious nations like Norway, Denmark, Canada, Japan and the UK are safely and successfully producing natural gas from their coastal waters.

No nation can produce energy more responsibly than ours. I have been on oil and gas rigs and they have such few discharges into the ocean, a medium sized fishing boat will leak more in a year.

This amendment is a major opportunity for us to respond to today's energy crisis with a national solution. I feel justified in supporting this amendment because I am from a coastal district. My constituents feel the same way as I do on this issue.

Chemical production and oil and gas exploration, processing, and refining are Texas top coastal industries. My colleagues from Florida and California think only they have beaches, but coastal tourism is Texas's second largest coastal industry.

That fact alone shows the argument that oil and gas production and coastal tourism are mutually exclusive is just plain wrong. They are acting like Chicken Little, and cannot point to one beach in Texas that has been ruined by oil or natural gas production.

There will be less need for LNG facilities and LNG tankers when we tap our own offshore resources so we can use the safest mode of transportation in the world—pipelines.

To address the needs of American families, we need a 3 pronged strategy. First, we need more production and infrastructure to meet our needs of today and tomorrow.

Second, we need more conservation to keep our economy going as resources become more competitive globally.

Third, we need more research to transition our economy to future sources of energy, for a time when petrochemicals are only used for materials, and not as an everyday fuel.

Supporting only long-term solutions and conservation is just not enough. It might be easier if it was, but we need to do more for today's energy problems. We will need continued American energy production for some time.

My point is not that we can drill our way to cheap oil or drill our way to energy independence. If we allow domestic production to die out, conservation and research will not save us, and we will have to pay a terrible economic price.

I urge my colleagues to support oil and gas production in the Outer Continental Shelf.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, I apologize to my good friend, the gentleman from California (Mr. CUNNINGHAM), but I have always supported the oil and gas exploration. Our economy demands it, and I believe this can be done safely. It is a jobs issue, it is about lowering the price of energy, and I strongly urge support for the Peterson amendment.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 30 seconds to the gentleman from Iowa (Mr. KING).

(Mr. KING of Iowa asked and was given permission to revise and extend his remarks.)

Mr. KING of Iowa. Mr. Chairman, I thank the gentleman for yielding me this time.

I would point out that Iowa and the Corn Belt are held hostage to the price of natural gas in two ways. It is our input cost for nitrogen fertilizer. Ninety percent of the cost is the cost of natural gas. The other side is that we use it to dry grain.

We have to have a full energy picture. I congratulate the gentleman for bringing this amendment, fully support it, and I urge adoption of it.

Mr. DICKS. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to this amendment.

First of all, we had no hearings in the committee about this. I believe that on a subject of this importance, if we are going to take back this protection that we have had on the books almost for the last 25 years, we have to have hearings. We have to bring in the parties and give people good information about what this is all about. That was not done. This amendment came up for the first time in the full committee.

So I believe just on process this amendment should be defeated, and I would tell the gentleman from Pennsylvania that we should take a look at this. The committee should have some oversight hearings. But to come here now without having those hearings, the benefit of those hearings, and to present this and reverse 25 years of Presidential and Congressional cooperation would be a serious mistake. So I oppose the amendment.

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

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume to ask the gentleman if we had hearings before it was put in this bill 20 years ago and every year in a row? No.

Mr. Chairman, I yield 30 seconds to the gentleman from New Mexico (Mr. PEARCE).

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

Mr. PEARCE. Mr. Chairman, I rise to support the amendment. I made my living in the oil and gas business. And to correct an earlier statement, you can determine what you are going to drill for. You can determine that you are going to put oil at the surface or you are going to put gas at the surface. That is to correct the record.

We are in a world economy, and we are losing our jobs. These jobs are 100,000 a year-plus jobs when we lose them out of the chemical industry and the fertilizer industry. I was in the industry when the price went from $2 to $50. We will drill this gas. We will simply do it before or after we lose our jobs. We will do it before or after people have to give up their homes to heat them.

Mr. YOUNG of Florida. Mr. Chairman, what is the status of the remaining time?

The Acting CHAIRMAN (Mr. SHIMKUS). The gentleman from Florida (Mr. YOUNG) holds the remaining time of 1 minute.

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

Again, I represent the strong position of the committee in opposition to this amendment. The committee has considered this many, many times before and determined that this moratorium should stay in place. It started in 1983. There have been attempts to change it since then unsuccessfully.

We cannot solve the energy problems of America and the world in an appropriation bill. Those issues should be

settled in an energy bill, and the energy bill that was before us did not include this amendment because it just does not work.

So, representing the committee, and the minority has indicated, as indicated by the gentleman from Washington (Mr. DICKS), we are opposed strongly to this amendment and hope that the Members will reject it.

Mr. KING of Iowa. Mr. Chairman, I rise today to urge my colleagues to vote in favor of the Peterson Amendment to end the 20 year moratoria on natural gas production from the outer continental shelf and Gulf of Mexico.

High natural gas prices have not only affected the 61 percent of U.S. households that use natural gas for heating and cooking, but America's small businesses, including agriculture. The agricultural industry depends on natural gas for crop drying, irrigation, heating, farm buildings, food processing and nitrogen fertilizer production.

Undoubtedly, the most demanding use of natural gas by the farm sector is in the production of nitrogen fertilizer. It accounts for 90 percent of total costs of producing fertilizer. The surge in natural gas prices over the last four years has been a key reason why nitrogen fertilizer costs have jumped by nearly 50 percent at the farm level. This problem is not going away on its own, a recent report by Iowa State University estimates that farmers can expect to pay 20 percent more for fertilizer this year than they did last year.

Nitrogen fertilizer is an essential component in today's high-yielding agriculture and accounts for more than 40 percent of the total energy input per acre of corn harvested. The importance of nitrogen to crop production can be illustrated by the fact that it is applied to 96 percent of all corn acres, 86 percent of all wheat acres and 80 percent of all cotton acres. According to data from the University of Illinois, without nitrogen fertilizers, corn yields would reduce by one-third to one-half.

This 20 year moratorium has created a supply squeeze for natural gas. On one hand, electric utilities and other industries have been influenced to move away from using our plentiful supplies of coal and towards the use of natural gas. Natural gas has been the fuel of choice for more than 90 percent of the new electric generation to come online in the last decade. At the same time, access to natural gas is limited due to environmental policies. Clearly we can't have it both ways.

Our family farmers are already efficient. Since 1980, they have increased efficiency by 35 percent while still boosting corn yields by 40 percent. But they need Congress to produce the kind of policies that enable them to access the resources they need at a reasonable price.

American agriculture is being held hostage to high natural gas prices, yet we have a plentiful supply right here in the United States. A vote in favor of the Peterson Amendment will be a vote for agriculture.

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

The Acting CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. PETERSON).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendments offered by the gentleman from Pennsylvania (Mr. PETERSON) will be postponed.

AMENDMENT OFFERED BY MR. WU

Mr. WU. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WU:

Immediately after Sec. 104 insert the following:

None of the funds in this or any other Act shall be used to permit class III gaming activities under the Indian Gaming Regulatory Act on non-reservation Indian land.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

Mr. WU. Mr. Chairman, I thank the chairman and the ranking member, but I am deeply concerned about a possible Indian gambling casino in the Columbia River Gorge National Scenic Area. I have had these concerns for at least 7 years, and I am extremely disappointed in recent developments. The Governor of Oregon signed a compact with this tribe on April 6 and it was presented to the Department of the Interior on April 8.

I have been consistent in my position and I have privately informed the Confederate Tribes of the Warm Springs Reservation and Governor Kulongoski and his predecessor Governor Kitzaber throughout my congressional career that I specifically do not support a casino in the Columbia River Gorge National Scenic Area, and that generally I oppose off-reservation gaming casinos.

I have persisted in suggesting to the Warm Springs Tribe that they consider a new location on reservation land along a highly traveled route, namely Highway 26, between Portland, Oregon, and Bend, Oregon. This particular proposal came to the Federal Government on April 8, and it is necessary that I weigh in now. I am asking Secretary Norton to disapprove the Tribal-State compact, because this casino will hurt the Columbia River Gorge, other tribes and all Oregonians.

I understand the Secretary intends to approve this compact, but that only starts the process. I am here to tell the Secretary and the Tribe that Congress will not be silent while the crown jewel of Oregon's natural heritage gets trashed. I have been a supporter of preserving the Columbia River Gorge National Scenic Area and I will continue to do so.

A casino of this magnitude will bring over 3 million non-Gorge-related visitors per year, a million cars per year to the area, and exacerbate traffic, pollution, and risks to endangered species in the Columbia River Gorge National Scenic Area. I am pro-Gorge, and I am troubled that there is a possibility of disturbing this crown jewel of Oregon's natural heritage. I will actively oppose this proposal and do everything I can to protect the Gorge.

State and Federal agencies have already determined that air quality in the Columbia River Gorge is significantly degraded and that visibility is impaired 95 percent of the time within this national scenic area. Also, according to the United States Department of Agriculture Forest Service Pacific Southwest Research Station, this area suffers acid rain and fog as severe as what falls in industrial cities such as Los Angeles, Pittsburgh, and New York.

Mr. Chairman, States such as Oregon, Nevada, Louisiana, Rhode Island, and South Dakota derive State taxes from casinos, slot machines, and lotteries for more than 10 percent of their overall State revenues. Oregon must not become further dependent on gambling. In all the States I listed, budgetary problems persist and gambling does not solve their problems. We should not sacrifice our national treasures, our communities, or our souls upon the alter of Indian casino gambling.

Mr. Chairman, I yield to the gentleman from Pennsylvania (Mr. DENT).

□ 1445

Mr. DENT. Mr. Chairman, I look forward to having an opportunity to work with my colleagues from Oregon and California in the near future in order to address the expansion of casino gambling to off-reservation sites.

I thank the gentleman for allowing me to address this issue of concern to my district. In my Pennsylvania district, the Delaware tribes of Oklahoma have filed suit in order to acquire the right to establish a casino. Their claim is based on a conveyance that allegedly occurred in 1737 before our Nation's independence. The land that they claim is home to at least 25 local families, and also contains the Binney and Smith manufacturing plant, the maker of Crayola crayons. These tribes, who are based out of State, are only interested in seeing working and senior Pennsylvanians gamble away their hard-earned dollars. They are not concerned about the valuable manufacturing jobs jeopardized as a result of the displacement caused by this casino, or the fact that Binney and Smith/Crayola makes a useful product loved by children all over the world.

I am concerned about this kind of reservation shopping, and I look forward to working with my colleagues from California and Oregon and Michigan and elsewhere in order to limit these tribes' ability to build new casinos on properties not contiguous to existing reservations or on those lands where ownership is based solely on a conveyance that predates the existence of our Nation.

Mr. EHLERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank the gentleman for this discussion about casinos. I want to relate a similar problem that we have in my area in Michigan, not directly in my district, but it impinges on my district.

I believe it is high time that the Congress address this particular problem. The difficulty my area is a case of a tribe which does not live in the area in which it is seeking to have land placed in trust for it in a community that welcomes it because they think that there will be economic development. But, in fact, it is going to have serious impact on areas in my district and on surrounding communities.

Obviously, it is going to be a high-traffic area, with a need for new roads, and of course the casinos do not pay any tax. There will be no tax on the land, and this results in a good deal of problems that the local communities and state will not have the funds to take care of.

I believe it is very important to put a limitation on off-reservation gambling and on cases where a tribe moves into an area which is nowhere near its home and claims that to be an area where they can have land placed in trust, and they then build casinos and other facilities.

It creates particular problems, for example, for merchants who may be running a supermarket or a gas station, and suddenly there is somebody new in town who is offering the same services, but does not have to pay taxes. This is a totally unfair proposition for the local businesses that are there. In that sense, I support the effort to put some regulation on this.

I am not rising in support of the amendment. I have been involved in discussions with the previous speakers, and they have much the same problems we do, but I have also discussed it with the gentleman from California (Mr. POMBO) who chairs the Committee on Resources, and he has assured me and the rest of us that he has a bill that will deal with this problem and that will provide free and open debate on the House floor.

Rather than deal with it in an appropriations bill, it is my preference that we not consider these amendments at this point, but defer to the gentleman from California (Chairman POMBO) and await the chairman's bill which he has said that he will attempt to get out of committee and onto the floor before the August recess.

We have to recognize this is a serious problem for many communities across the country. I have only addressed one aspect of it, but there are many other aspects that have to be addressed and understood. When the Pombo bill comes up, we will have time for a full debate and discussion of all of the other tangential issues as well, including what ability the States have to regulate the location of these facilities, and what ability the States have to negotiate compacts so that the actual costs to the State and local communities are met by these facilities that are moved into an area where the sponsoring individuals have never lived.

Mr. WALDEN of Oregon. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment proposed by my colleague from Oregon. I only wish I had known in advance the gentleman was going to offer this amendment because it is specifically targeted toward my district, a tribe in my district, that is seeking to gain approval of a compact and take land into trust.

Warm Springs Tribe is not a family of five that has gone out shopping somewhere in some other State for land. There are 4,400 tribal members who are suffering on the reservation. They have worked diligently with the communities involved. They have land in the Scenic Columbia River Gorge that is in trust and was in trust prior to the passage of IGRA, and it is on a hillside where they have plans where they could build, and they could do that today.

But that land would scar the beauty of the Scenic Columbia River Gorge, which is my home and has been my home all of my life. This tribe, instead, looked to another area, and my colleague from Oregon suggests that the area they looked at is the crown jewel of the gorge.

Mr. Chairman, this is port property zoned for industrial use, leveled out with dredge tailings from the construction of the second lock at Bonneville Dam, all right, as opposed to an area up on a side hill that is timbered and beautiful where they already have land. So they worked with the local community which supports them locating there. They reached a compact with the Democratic Governor in a long and protracted discussion. That compact is now before the Secretary.

My colleague has on more than one occasion mentioned an acid rain study. We have looked at that, and he should know because we know it was done over a 4-month period one with readings at a little town in Wishram, Washington, during the winter when it is foggy in the gorge. So there is much more to that story that I will not get into today, but I suggest the gentleman take another look at that study.

I grew up in the gorge. We are the wind-surfing, kite-boarding capital of the world. And in the summer, if you want to come and find where the wind blows, come to the gorge and enjoy the great recreational opportunities, and it blows from the west. The west is where the great urban center of our wonderful State is, where there are traffic problems and industrial problems; and I tell Members that because if there is a problem with pollution in the gorge, it is not coming from the east, it is coming from the west.

So I urge Members to oppose this amendment. I think the chairman of our Committee on Resources has a much more prudent approach, to look at this issue on a broader scale, to see what is the best policy for this Nation to follow when it comes to dealing with these issues of tribal casinos on or off reservation.

But to move an amendment like this with very little notice, if any, on an appropriations bill, I would dare say, is not appropriate.

POINT OF ORDER

Mr. TAYLOR of North Carolina. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill and therefore violates clause 2 of rule XXI. The rule states in pertinent part: ''An amendment to a general appropriations bill shall not be in order if changing existing law.'' The amendment imposes additional duties.

I ask for a ruling from the Chair.

The Acting CHAIRMAN (Mr. SHIMKUS). Does any Member wish to be heard on the point of order?

Mr. WU. Mr. Chairman, I would inquire of the chairman as to whether the chairman would permit the gentleman from Oregon (Mr. WALDEN) and me to engage in a discussion of the merits of the amendment.

The Acting CHAIRMAN. At this point debate is on the point of order. The gentleman from Oregon may not yield to another for discussion on the point of order. The Chair will hear each Member on his own time in debate on the point of order.

PARLIAMENTARY INQUIRY

Mr. WU. Parliamentary inquiry.

The Acting CHAIRMAN. The gentleman may state his parliamentary inquiry.

Mr. WU. What is the scope of discussion permitted in this segment of the debate?

The Acting CHAIRMAN. Argument relevant to the point of order raised against the amendment.

Mr. WU. I concede the point of order.

The Acting CHAIRMAN. The point of order is conceded and sustained. The amendment is out of order.

Mr. TAYLOR of North Carolina. Mr. Chairman, I move that the Committee do now rise.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TERRY) having assumed the chair, Mr. SHIMKUS, 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. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, had come to no resolution thereon.

LIMITATION ON AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 2361, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that, during further consideration of H.R. 2361 in the Committee of the Whole pursuant to House Resolution

287, no further amendment to the bill may be offered except:

Pro forma amendments offered at any point in the reading by the chairman or ranking minority member on the Committee on Appropriations or their designees for the purpose of debate;

Amendments printed in the RECORD and numbered 3, 6, 8, 11, 13, and 17;

Amendments printed in the RECORD and numbered 1, 4, 5, and 14, which shall be debatable for 20 minutes;

An amendment by the gentleman from Florida (Mr. HASTINGS) regarding environmental justice, which shall be debatable for 20 minutes;

An amendment by the gentleman from Wisconsin (Mr. OBEY) regarding a $500 million increase in Clean Water State Revolving Fund and tax matters;

An amendment by the gentleman from Wisconsin (Mr. OBEY) regarding a $100 million increase in Clean Water State Revolving Fund, which shall be debatable for 20 minutes;

An amendment by the gentleman from Ohio (Mr. GILLMOR) regarding State and Tribal Assistance Grants;

An amendment by the gentleman from Ohio (Mr. CHABOT) or the gentleman from New Jersey (Mr. ANDREWS) regarding the Tongass National Forest, which shall be debatable for 20 minutes;

An amendment by the gentleman from California (Mr. POMBO) regarding making spending on certain accounts subject to authorization;

An amendment by the gentlewoman from California (Ms. SOLIS) regarding intentional dosing;

An amendment by the gentleman from Wisconsin (Mr. OBEY) to amendment No. 5;

An amendment by the gentleman from California (Mr. COSTA) regarding concession sales;

An amendment by the gentleman from California (Mr. DOOLITTLE) or the gentleman from California (Mr. THOMPSON) regarding Lower Klamath and Tule Lake; and

An amendment by the gentleman from North Carolina (Mr. TAYLOR) regarding funding levels.

Each such amendment may be offered only by the Member named in this request or a designee, or the Member who caused it to be printed in the RECORD or a designee, shall be considered as read, shall not be subject to amendment, except as specified, and except that the chairman and ranking minority member of the Committee on Appropriations and the Subcommittee on Interior, Environment, and Related Agencies each may offer one pro forma amendment for the purpose of debate; and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

Except as otherwise specified, each amendment shall be debatable for 10 minutes, equally divided and controlled by the proponent and opponent. An amendment shall be considered to fit the description stated in this request if it addresses in whole or in part the object described.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. OBEY. Mr. Speaker, reserving the right to object, I am trying to stall for time while we clear up a controversy that has arisen.

□ 1500

I certainly am in support of the intention of the gentleman's request, but it is my understanding that there may be a problem with one of the amendments. I am hoping that by the time I am done filibustering here the gentleman's staff will have worked it out with the Parliamentarian and we will be able to proceed.

The SPEAKER pro tempore (Mr. TERRY). The Chair will inquire of the gentleman from North Carolina, does the request include a possible modified form of amendment No. 1?

Mr. TAYLOR of North Carolina. Yes, Mr. Speaker.

Mr. OBEY. Mr. Speaker, with that understanding, I withdraw my reservation of objection.

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

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanoa Evans, one of his secretaries.

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. Pursuant to House Resolution 287 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2361.

□ 1502

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 further consideration of the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, with Mr. SHIMKUS (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose earlier today, the bill had been read through page 53, line 17.

Pursuant to the order of the House of today, no further amendment to the bill may be offered except:

Pro forma amendments offered at any point in the reading by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate;

Amendments printed in the RECORD and numbered 3, 6, 8, 11, 13, and 17;

Amendments printed in the RECORD and numbered 1 subject to a modification to the amendment as printed in the RECORD, 4, 5, and 14, which shall be debatable for 20 minutes;

An amendment by the gentleman from Florida (Mr. HASTINGS) regarding environmental justice, which shall be debatable for 20 minutes;

An amendment by the gentleman from Wisconsin (Mr. OBEY) regarding a $500 million increase in Clean Water State Revolving Fund and tax matters;

An amendment by the gentleman from Wisconsin (Mr. OBEY) regarding a $100 million increase in Clean Water State Revolving Fund, which shall be debatable for 20 minutes;

An amendment by the gentleman from Ohio (Mr. GILLMOR) regarding State and Tribal Assistance Grants;

An amendment by the gentleman from Ohio (Mr. CHABOT) or the gentleman from New Jersey (Mr. ANDREWS) regarding the Tongass National Forest, which shall be debatable for 20 minutes;

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An amendment by the gentleman from California (Mr. COSTA) regarding concession sales;

An amendment by the gentleman from California (Mr. DOOLITTLE) or the gentleman from California (Mr. THOMPSON) regarding Lower Klamath and Tule Lake; and

An amendment by the gentleman from North Carolina (Mr. TAYLOR) regarding funding levels.

Each amendment may be offered only by the Member named in the request or a designee, or the Member who caused it to be printed in the RECORD or a designee, shall be considered as read, shall not be subject to amendment, except as specified, and except that the chairman and ranking minority member of the Committee on Appropriations and the Subcommittee on Interior, Environment, and Related Agencies each may offer one pro forma amendment for the purpose of debate; and shall not be subject to a demand for division of the question.

Except as otherwise specified, each amendment shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent.

The Clerk will read.

The Clerk read as follows:

SEC. 105. No funds provided in this title may be expended by the Department of the Interior to conduct offshore oil and natural

gas preleasing, leasing and related activities in the eastern Gulf of Mexico planning area for any lands located outside Sale 181, as identified in the final Outer Continental Shelf 5-Year Oil and Gas Leasing Program, 1997–2002.

AMENDMENT NO. 14 OFFERED BY MR. ISTOOK

Mr. ISTOOK. 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. 14 offered by Mr. ISTOOK:

Page 53, line 24, after the period, insert the following: ''This section shall not apply on and after any date on which the Energy Information Administration publishes data (as required by section 57 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790f) demonstrating that net imports of crude oil account for more than two-thirds of oil consumption in the United States.''.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

The Acting CHAIRMAN. The point of order is reserved.

Pursuant to the order of the House of today, the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from North Carolina (Mr. TAYLOR) each will control 10 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, as we heard earlier, a major reason that we have skyrocketing energy prices in the United States is because this bill has been used for a vehicle for 30 years to restrict the ability to explore in the Outer Continental Shelf. When those restrictions were first adopted, America was importing 28 percent of its oil from foreign shores. Today, that has risen to 58 percent and it continues to climb dramatically each year.

This amendment, Mr. Chairman, says it is about time that we create a commonsense trigger. At such time as two-thirds of our energy consumption is coming from overseas, then we will lift the moratorium in the area that has the most promise, which in this case is the eastern Gulf of Mexico.

Mr. Chairman, I know the big issue to people is, is it environmentally safe to do so? I realize that is the concern and I would like to focus on that. America has not had any major spill from an offshore oil well since 1969. Why? It is not because we are not drilling offshore. We are getting 25 percent of our oil from offshore, actually 30 percent of oil and a fourth of the natural gas. But we are not allowing drilling in most of the areas. Ninety percent of the coastal areas in the lower 48 States are closed by these moratoria. To drill offshore, however, you have to obtain 17 major Federal permits. You have to obey 90 sets of Federal regulations which have been put in place during the years of these moratoria. All of those are designed to protect the environment. They have been 99.999 percent effective in keeping the environment safe. Less than one one-thousandth of 1 percent of the oil that is produced offshore has been spilled. Who else has a safety record like that, 99.999 percent? We also are able to produce it from fewer offshore platforms because we have horizontal drilling that allows multiple wells to be drilled from a single location. And of the oil spills, the very few that have happened, 97 percent are of less than one barrel of oil.

We are talking about drilling at least 10 miles offshore in Federal waters. In most of these cases, we are talking about drilling 100-plus miles offshore. There is enormous potential for this. The official estimate says there is 76 billion barrels of oil and 406 trillion cubic feet of natural gas in the Outer Continental Shelf. But 90 percent of these resources in the lower 48 have been placed off-limits.

This is not about the oil or gas industry. This is about our national security. This is about the fact that we are spending $180 billion a year to bring in foreign oil when we ought to be producing so much more of that here and employing hundreds of thousands more people in the United States, bringing about better availability, lower prices, more jobs, and all in a way that we have proven through the offshore production that is happening, we have proven it can be done in an environmentally safe manner, it is being done in an environmentally safe manner.

The amendment says it is time to say, this is not a perpetual ban. When we reach a point, which we will in a few years, that two-thirds—two-thirds—of the oil and gas we use is coming from foreign shores, is it not about time that we find a commonsense approach to lift the bans and have environmentally clean and responsible ways to produce this energy America needs?

Mr. Chairman, the recent steep rise of energy prices has convinced consumers that America needs more energy, and we need to be producing it ourselves. We don't want to rely on supplies halfway around the world, and we don't want to ship tens of billions of American dollars overseas each year to buy foreign oil. We're spending $180 billion dollars each year to buy foreign oil. If we could spend those billions right here in the USA, to produce more of the energy we use, we could add hundreds of thousands of high-paying American jobs.

Why aren't we doing this? Unfortunately, some well-intentioned concerns for the environment have grown into ungrounded fears. Rather than balancing environmental issues with our need to produce more energy, we've let things get out of kilter. One of our biggest failures is that we've placed so much of our oil and gas reserves off limits. We've done that by including provisions in this Interior appropriations bill—provisions we've had in it now for decades—that have banned drilling in most areas of the Outer Continental Shelf. What's worse, we have failed to review and adjust those provisions, to recognize that things are different now than when we first adopted those restrictions.

There is no longer a conflict between our ability to protect the environment and our ability to produce energy by drilling offshore. We're talking about areas at least 10 miles offshore, and usually much farther offshore, 100 miles, even 200 miles and more.

Our failure to review and adjust these offshore drilling bans is now costing this country dearly. Every time you pay your utility bill or buy gasoline, remember that these prices would not be so high if Congress had simply used common-sense, years ago, to let us drill more offshore areas in an environmentally-responsible way. Instead of promoting safe ways to drill, we've totally banned that drilling in most of our offshore areas.

My amendment doesn't lift the ban immediately, but creates a way for us to plan ahead. It establishes a tipping point for ending the ban in the most promising area—the eastern Gulf of Mexico, saying that the ban will end if imports rise to two-thirds of the oil we use. We're at 58% today, and going up at the rate of 1% to 2% each year.

ENVIRONMENTAL SAFETY

People naturally ask, ''Is this environmentally safe?'' The answer is ''Yes.''

America has not had any major spill from an offshore oil well since 1969.

Why is this? It's not because we're not drilling offshore; it's because we have succeeded in protecting the environment while we drill. Oil and gas operations in the Outer Continental Shelf are among the most tightly regulated economic activity in the world.

Despite the moratoria that has closed many areas, America still produces almost one-third of its oil (30%) and almost one-fourth (23%) of its natural gas from offshore wells. There's a lot of coastal drilling, and it is safe drilling, and it would be just as safe to drill in the areas where it's being banned.

To drill offshore, you must obtain 17 major federal permits and obey 90 sets of federal regulations, all designed to protect the environment. Most of those went into effect in 1975, and they have been 99.999% effective in keeping the environment safe. That's because less than 1/1,000 of 1% of the oil produced offshore has been spilled. What other industry has a safety record like that—99.999%!

We also produce more from fewer offshore platforms, thanks to horizontal drilling that allows multiple wells to be drilled from a single platform. Technological advances during the past 30 years allow us to extract more resources with less impact on the environment.

And most of them are tiny—97% of the offshore spills are of less than one barrel of oil.

OCS BACKGROUND

The Outer Continental Shelf is composed of lands generally beyond the 3-mile area of state jurisdiction and 10-mile area of state jurisdiction in Florida and encompasses about 1.76 billion acres. About 25% of the oil and gas produced in the United States comes from the OCS. But there's a lot more potential than that. About 60% of America's remaining oil and 41% of our remaining gas resources are in the OCS.

The official estimate is that there are 76 billion barrels of oil and 406 trillion cubic feet of natural gas in the OCS. But we have placed about 90% of the areas offshore the lower 48 states off-limits, banning drilling in those areas. Imagine that—as Americans pay high prices, Congress says that 90% of this huge resource is off-limits, and drilling is banned. So we pay sky-high prices because we depend on foreign oil, and we ship hundreds of

thousands of jobs overseas, along with tens of billions of dollars each year.

Congress has restricted drilling in the OCS for over 30 years. During this time, the percentage of net imports of petroleum has risen from 28% to 58% today.

FOREIGN SOURCES

And what does it mean if we don't have those resources?

Domestic energy independence isn't just about the energy industry. It's about our national security. Currently, about 58% of our net petroleum imports came from foreign sources. During the past ten years, this percentage has risen by one percentage point on average each year. So ten years ago we imported about 48% and today it's about 58%. The Energy Information Administration predicts that by 2025, dependence on petroleum imports is projected to reach 68% of net imports.

ECONOMIC SECURITY

This not only affects our national security, it also affects our economic security. Last week, consumers were paying an average $2.18 for a gallon of motor gasoline. That's a 62 cent a gallon increase in just five years!

Natural gas prices have been even more devastating for consumers. Residential prices have doubled in the past four years. Commercial and industrial prices have tripled. 90,000 jobs in the chemical industry have been lost along with $50 billion of business because of natural gas prices in the U.S.

When we talk about the need for domestic energy production, or independence, it's not just about the energy industry. It's about all of us. If we want gasoline prices to stop skyrocketing we must act. If we want to stop losing manufacturing jobs, we must act.

We all know that China, India, and other countries' economies are expanding and their demand for oil and natural gas worldwide will continue to grow. As the demand for oil grows globally, the United States cannot be left behind by limiting its supply.

CONCLUSION

Why aren't we pursuing this offshore oil and gas? It's because this appropriations bill has several provisions banning offshore drilling. Not just one ban, but a whole series of them. And we've been including these bans in this bill for over 30 years.

This amendment would protect our national security. This amendment would only open up a portion of the Eastern Gulf of Mexico and only when the Energy Information Administration publishes data showing that more than two-third of net imports of crude oil come from foreign sources.

My amendment singles out only one of these many areas where drilling has been banned, namely the eastern Gulf of Mexico. That area is selected for two simple reasons: First, it has the largest oil land gas deposits. Second, it's the farthest offshore, away from the coastline and the beaches. In all cases more than 10 miles offshore, land in most cases more than 100 miles offshore. It is not in state waters. It is in federal waters.

Congress has restricted activity in the OCS for over 30 years. During this time, the percentage of net imports of petroleum has risen from 28% to 58% today. Our constituents all feel the pinch that higher energy prices bring to their budget.

Let's use common sense and create a plan to end the moratorium in an environmentally sound way, as I've proposed in this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I continue to reserve my point of order, and I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Chairman, hardworking American families are paying a high price at the gas pump today because of our Nation's dependence upon foreign oil. Unless we get tough and show OPEC nations that Americans are serious about becoming less dependent upon their self-serving oil cartel, our working families and our Nation's economy will continue to be the victims of high energy costs. That is why I am supporting the Istook amendment.

Environmentally safe drilling for oil and natural gas in the Outer Continental Shelf in the eastern Gulf of Mexico would be possible under this amendment. This production could be done safely and cleanly. It does not require new technology. It is not some type of new experiment. The fact is that already Outer Continental Shelf production represents 30 percent of all U.S. domestic oil production and 23 percent of our natural gas production.

What OCS energy production does do is provide 42,000 Americans with good jobs and brings this $6 billion a year to our U.S. Treasury. With more energy production that puts more Americans to work, we can send a clear message to the OPEC cartel that we are fed up with their cartel which is busting the budgets of America's working families.

It is time to say we are sick and tired of the OPEC tax which costs American families $20 billion for every 25-cent increase in the price of gasoline. Tapping major oil and gas reserves in the eastern Gulf, something we are already doing off the Texas and Louisiana coasts, will create thousands of new American jobs, bring in billions of dollars to reduce the Federal deficit and our terrible trade deficit, and save working families money every time they go to the gasoline pump. That is a good deal and a smart deal for millions of hardworking American families.

By voting ''yes'' on the Istook amendment, we are voting ''no'' on the OPEC tax, which is hurting most those who can least afford it.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. I thank my colleague from North Carolina for yielding time.

Mr. Chairman, I would like to first correct some statements that the gentleman from Oklahoma made in his arguments. He said that 40 percent of the OCS gas is unavailable to leasing. As he knows, Minerals Management Service conducts a survey every 5 years and the latest assessment of resources on the Outer Continental Shelf was done in the year 2003. It includes estimates of undiscovered technically recoverable oil and natural gas. This assessment shows that 81 percent of the Nation's undiscovered technically recovered OCS gas is located in the central and western parts of the Gulf of Mexico where drilling is allowed.

□ 1515

And he also claims that it is such a safe industry. I would like to remind him, those of us who live on the central coast of California remember with an indelible mark the 1996 oil spill of platform A that devastated our economy and our environmental resources for decades. We are still living with some of the results of this.

This is an amendment in which the House had a vote just a few years ago, a similar kind of amendment in the 107th Congress. Seventy Republicans joined 176 Democrats to block oil and gas developments in the eastern Gulf of Mexico. A vote against this amendment will accomplish the same thing, a vote to protect the eastern Gulf of Mexico from new drilling. This amendment is the first step to drilling in areas now off limits, including North Carolina, New Jersey, California, and even the Great Lakes.

So we should reject this amendment and not weaken existing protections for our coastal waters. This amendment guts the longstanding bipartisan moratoria that currently protects our Nation's most sensitive coastal marine areas.

Mr. ISTOOK. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. KING).

(Mr. KING of Iowa asked and was given permission to revise and extend his remarks.)

Mr. KING of Iowa. Mr. Chairman, I thank the gentleman for yielding me this time.

I point out that the U.S.-produced nitrogen fertilizer that American farmers have historically relied upon is being outsourced to foreign producers. Of the 16½ million tons of nitrogen fertilizer production capacity that existed in this country prior to the year 2000, nearly 20 percent has been closed permanently and there are another 4 million tons, 25 percent again at risk of closing within the next 2 years.

We have outsourced our nitrogen fertilizer protection to foreign countries like Venezuela and Russia, where they are subsidizing their natural gas. Here we refuse to develop our natural gas. And now we are faced with Chinese involvement in the Western hemisphere, who are involved in capital investment, and I know that there is drilling going on offshore for Cuba. I do not know if it is affected by this bill. But I know this: The gentleman from New Mexico (Mr. PEARCE) was right. It is not the question of whether we are going to drill for this oil. We will do it sometime. It is just a question of whether we do it before or after we lose the jobs, before or after we lose the production of this natural gas to foreign countries.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in opposition to the amendment and would like to again point out that this Congress has already taken a very significant step towards addressing the need for additional drilling for oil and gas in the Gulf of Mexico. We are currently drilling in the central and western Gulf. This Congress has passed additional financial incentives for deepwater drilling. This is an important step towards addressing the problem of supply.

This amendment goes much further than that and exposes areas for drilling just a few miles off the coast of Florida without any clear indication that there will be no risk to the beaches of Florida. This is very important to our economy. Many Members of Congress are rising today to defend the economy in their State. No one is going to stand on this floor and say that the beaches of Florida are not the most important part of our economy in addition to the work skills of our Floridians.

We do not want to take this risk. There is a very small proportion of supply available off the coast of Florida. There is an enormous proportion available in the central and western Gulf. This Congress has already acted. We provide additional financial incentives to get the supply where it is to be had.

I urge opposition to the amendment.

Mr. ISTOOK. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Mr. Chairman, I thank the gentleman from Oklahoma, my neighbor, for yielding me this time.

It is interesting that there is potential production of our natural resources that people oppose. This amendment only covers the eastern Gulf of Mexico. It only covers off the coast of Florida. Not California, not the northeast United States, even though there may be potential there. This is just the eastern Gulf of Mexico.

I just do not understand what is going to happen to our country if we continue to import more and more oil, and obviously we are having to import more and more natural gas. I do not know what the folks in California are going to do about energy. I know they have high prices. Get ready to have them even higher, unless we can start bringing production on line that is domestic production, and right now the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from Texas's (Mr. EDWARDS) amendment is the best potential because off the western coast of Florida is some of the most productive potential for natural gas and oil fields.

I guess it is frustrating because off the nation of Cuba we have Chinese and Spanish companies that are drilling closer to Florida than U.S. companies can drill close to Florida. So we have a foreign country who can drill closer to Florida. This only covers the eastern Gulf of Mexico, and that is why I think some people will say no to anything. And I do not know what is their solution. More windmills? I love windmills and we can do that. We need energy, no matter whether that comes from oil, natural gas, windmills, or anything else.

The United States produces some of the safest energy that we can. The nations of Norway, Denmark, Canada, Japan, and the United Kingdom are successfully producing oil and gas from their coastal waters, and yet we leave a great deal of ours except off of Texas, Louisiana, Alabama, Mississippi, and Alaska.

So, again, even though those beaches may be pristine, because I like the beaches in Texas and I consider them pristine, but we do not need to keep our head in the sand of those beaches and not realize we have to have more energy resources in our country.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, those who support this amendment should really look at solving the current energy crisis. If they wanted to, they would invest in renewable energy sources and energy efficiency and conservation. For example, providing tax incentives for the construction of energy efficient buildings and manufacturing energy efficient heating and water heating equipment could save 300 trillion cubic feet of natural gas over 50 years. This is more than 12 times the Department of Interior's mean estimate of economically recoverable gas outside the central and western Gulf of Mexico.

So why are we here today discussing offshore oil drilling instead of promoting efficient and renewable energy sources? It could be that we are pandering to big oil companies.

We not only have to worry about oil spills from offshore oil rigs, we also have to worry about the damaging way that they drill for oil and natural gas. An average of 180,000 gallons per well of drilling muds that are used to lubricate drill bits and maintain downhole pressure are dumped untreated back into the surrounding waters. Water brought up from a well along with oil and gas typically contains a variety of toxic pollutants.

I will vote against this amendment. I consider it dangerous and it is absolutely no solution to our gas and energy shortage.

Mr. ISTOOK. Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I am not an extreme environmentalist. I am a conservationist. And that is why I find it difficult, most of the time on fighting some of the people who are speaking against this amendment, that I find myself allied with them on this particular issue.

Most of the time we quote studies. The first thing we do is see who did the study, who paid for it, and what is their agenda. The National Academy of Sciences is neither pro-business nor pro-environment. They are pro-science, and they are peer reviewed. The National Academy of Science: Gas and oil exploration will, not may, will, cause irreputable damage to the environment and to the economy off the coast of California.

I understand the gentleman from Texas. I trained with the Navy in Texas. Their beaches are not pristine like Florida and California. That is why all of their folks come to California for the good weather and the nice beaches, and we want to keep it that way. We want them to come back to California.

But I want to tell the Members something. The moratorium that we have had has protected the shorelines. During the gas debate, I talked about Batigitos Lagoon and our beaches. A lot of our economy is based on tourism. I heard, well, it is just the oil tankers leaking in Long Beach or it is seepage. It is not. The National Academy of Sciences said if we drill those new leases, then it is going to cause irreputable damage.

They have slant drilling, but when they have the technology to stop the damage, I will be along with them.

Nancy, my bride, and I walk along the beaches. That is what we do for fun with the kids. I have walked at Long Beach. And it took me 2 weeks to get the oil off of my Jack Russell terrier, and the bottom of our feet. We have to use kerosene. That is what we are trying to protect. And if they want to do something, I read where an oil company from the United States had a $12 billion profit the first quarter. I am pro-business, but I am not for pro-ripoff, and that is what we ought to look at in the cost of gas.

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

Mr. Chairman, I read the National Academy of Sciences' studies very differently. In fact, they say that two-thirds of the oil in the oceans is natural seepage and very little of it comes from the drilling that we are describing.

To those who say we never want to drill in these offshore areas, they should be honest with their constituents, and they should say ''It is fine with us for you to pay the skyrocketing energy prices. It is fine with us to spend $180 billion a year to bring most of our oil across the oceans overseas and bring it to America and send American jobs and American money over there in their place.''

It is environmentally safe. We have made so many advances since people made these moratoria, and yet people

do not want to look at those. It is time we take an honest look at it. We should not say that these areas are off limits forever. As the oil import problem rises, we should be looking at drilling in these offshore areas.

The Acting CHAIRMAN (Mr. FOSSELLA). The time of the gentleman has expired.

POINT OF ORDER

Mr. TAYLOR of North Carolina. Mr. Chairman, I raise a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriation bill, and we certainly would not want that. Therefore, it violates clause 2 of rule XXI.

The rule states in pertinent part: ''An amendment to a general appropriation bill shall not be in order if changing existing law . . . ''

The amendment poses additional duties.

The Acting CHAIRMAN. Does any Member wish to be heard on the point of order?

Hearing none, the Chair finds that this amendment includes language requiring a new determination. The amendment therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained, and the amendment is not in order.

The Clerk will read.

The Clerk read as follows:

SEC. 106. No funds provided in this title may be expended by the Department of the Interior to conduct oil and natural gas preleasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

SEC. 107. Notwithstanding any other provisions of law, the National Park Service shall not develop or implement a reduced entrance fee program to accommodate non-local travel through a unit. The Secretary may provide for and regulate local non-recreational passage through units of the National Park System, allowing each unit to develop guidelines and permits for such activity appropriate to that unit.

Mr. TAYLOR of North Carolina. Mr. Chairman, I move to strike the last word.

For the purpose of engaging in a colloquy, I yield to the gentlewoman from South Dakota (Ms. HERSETH).

Ms. HERSETH. Mr. Chairman, I thank the gentleman from North Carolina (Chairman TAYLOR) for yielding to me to engage in a colloquy concerning a devastating event that recently occurred on the Crow Creek Reservation in my home State of South Dakota.

Mr. TAYLOR of North Carolina. Mr. Chairman, reclaiming my time, I would be happy to discuss this matter with the gentlewoman from South Dakota.

Ms. HERSETH. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentlewoman from South Dakota.

Ms. HERSETH. Mr. Chairman, in the middle of the night on April 24, a fire broke out in a school dormitory on the Crow Creek Reservation in Stephan, South Dakota and did extensive damage to the structure. This dormitory on the campus of the Crow Creek Tribal School housed 230 of the students who attend that school, the only high school on the reservation.

□ 1530

Fortunately, even miraculously, no one was seriously injured in this fire.

School officials scrambled to find housing for the seniors who were attending the school at the time, but the students in the other grades could not be accommodated. For many of them, the school year simply ended unceremoniously on April 24.

The facility that burned also contained the kitchen and dining facilities for the school. The Crow Creek middle and high schools are now left without any dormitory, kitchen, or dining space for the more than 430 students enrolled there.

The needs that have been created by this tragic event are dire and immediate. I am asking the chairman to join me in urging officials at the Bureau of Indian Affairs to reprogram existing funds so school officials can immediately begin construction of adequate temporary dormitory facilities for the students at this school.

Mr. TAYLOR of North Carolina. Mr. Chairman, I am aware of the devastating fire that occurred on the Crow Creek Reservation. I agree with the gentlewoman that it is vital that the BIA begin construction of temporary facilities immediately so that they can be ready for the beginning of the school year this fall. Reprogramming requests for Crow Creek Tribal education facilities that come before this committee will be reviewed and approved as quickly as possible.

Ms. HERSETH. Mr. Chairman, it is my understanding that Congress has granted the BIA certain emergency authorities to reprogram funds from other accounts when situations such as this arise. I would certainly consider a devastating fire that threatened the educational mission of the only high school on an Indian reservation as a situation that would trigger BIA's emergency authorities.

The Office of Management and Budget may also seek to approve any BIA reprogramming requests to address these needs, and I ask the gentleman from North Carolina (Mr. TAYLOR) to join me in urging OMB to review these questions as quickly as possible. Does the gentleman agree with me on these points?

Mr. TAYLOR of North Carolina. Mr. Chairman, I certainly agree with the gentlewoman that this fire was unexpected and devastating to the school, and that that is precisely the type of event that would trigger the emergency authority of the BIA to reprogram funds, and I join the gentlewoman in urging the OMB to review these requests as soon as possible.

Ms. HERSETH. Mr. Chairman, I thank the gentleman for his recognition of the serious nature of the situation and for his willingness to work with me to address the very real needs of the children and students on the Crow Creek Indian Reservation.

The Acting CHAIRMAN (Mr. FOSSELLA.) The Clerk will read.

The Clerk read as follows:

SEC. 108. Appropriations made in this Act under the headings Bureau of Indian Affairs and Office of Special Trustee for American Indians and any unobligated balances from prior appropriations Acts made under the same headings shall be available for expenditure or transfer for Indian trust management and reform activities, except that total funding for historical accounting activities shall not exceed amounts specifically designated in this Act for such purpose.

SEC. 109. Notwithstanding any other provision of law, for the purpose of reducing the backlog of Indian probate cases in the Department of the Interior, the hearing requirements of chapter 10 of title 25, United States Code, are deemed satisfied by a proceeding conducted by an Indian probate judge, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing the appointments in the competitive service, for such period of time as the Secretary determines necessary: *Provided*, That the basic pay of an Indian probate judge so appointed may be fixed by the Secretary without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, governing the classification and pay of General Schedule employees, except that no such Indian probate judge may be paid at a level which exceeds the maximum rate payable for the highest grade of the General Schedule, including locality pay.

SEC. 110. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to redistribute any Tribal Priority Allocation funds, including tribal base funds, to alleviate tribal funding inequities by transferring funds to address identified, unmet needs, dual enrollment, overlapping service areas or inaccurate distribution methodologies. No tribe shall receive a reduction in Tribal Priority Allocation funds of more than 10 percent in fiscal year 2006. Under circumstances of dual enrollment, overlapping service areas or inaccurate distribution methodologies, the 10 percent limitation does not apply.

SEC. 111. Funds appropriated for the Bureau of Indian Affairs for postsecondary schools for fiscal year 2006 shall be allocated among the schools proportionate to the unmet need of the schools as determined by the Postsecondary Funding Formula adopted by the Office of Indian Education Programs.

SEC. 112. Notwithstanding any other provision of law, in conveying the Twin Cities Research Center under the authority provided by Public Law 104–134, as amended by Public Law 104–208, the Secretary may accept and retain land and other forms of reimbursement: *Provided*, That the Secretary may retain and use any such reimbursement until expended and without further appropriation: (1) for the benefit of the National Wildlife Refuge System within the State of Minnesota; and (2) for all activities authorized by Public Law 100–696; 16 U.S.C. 460zz.

SEC. 113. The Secretary of the Interior may use or contract for the use of helicopters or motor vehicles on the Sheldon and Hart National Wildlife Refuges for the purpose of capturing and transporting horses and burros. The provisions of subsection (a) of the Act of September 8, 1959 (18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary.

SEC. 114. Funds provided in this Act for Federal land acquisition by the National Park Service for Shenandoah Valley Battlefields National Historic District and Ice Age National Scenic Trail may be used for a grant to a State, a local government, or any other land management entity for the acquisition of lands without regard to any restriction on the use of Federal land acquisition funds provided through the Land and Water Conservation Fund Act of 1965 as amended.

SEC. 115. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 116. None of the funds made available in this Act may be used: (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when such pedestrian use is consistent with generally accepted safety standards.

SEC. 117. None of the funds in this or any other Act can be used to compensate the Special Master and the Special Master-Monitor, and all variations thereto, appointed by the United States District Court for the District of Columbia in the Cobell v. Norton litigation at an annual rate that exceeds 200 percent of the highest Senior Executive Service rate of pay for the Washington-Baltimore locality pay area.

SEC. 118. The Secretary of the Interior may use discretionary funds to pay private attorneys fees and costs for employees and former employees of the Department of the Interior reasonably incurred in connection with Cobell v. Norton to the extent that such fees and costs are not paid by the Department of Justice or by private insurance. In no case shall the Secretary make payments under this section that would result in payment of hourly fees in excess of the highest hourly rate approved by the District Court for the District of Columbia for counsel in Cobell v. Norton.

SEC. 119. The United States Fish and Wildlife Service shall, in carrying out its responsibilities to protect threatened and endangered species of salmon, implement a system of mass marking of salmonid stocks, intended for harvest, that are released from Federally operated or Federally financed hatcheries including but not limited to fish releases of coho, chinook, and steelhead species. Marked fish must have a visible mark that can be readily identified by commercial and recreational fishers.

SEC. 120. Such sums as may be necessary from ''Departmental Management, Salaries and Expenses'', may be transferred to ''United States Fish and Wildlife Service, Resource Management'' for operational needs at the Midway Atoll National Wildlife Refuge airport.

SEC. 121. (a) IN GENERAL.—Nothing in section 134 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (115 Stat. 443) affects the decision of the United States Court of Appeals for the 10th Circuit in Sac and Fox Nation v. Norton, 240 F.3d 1250 (2001).

(b) USE OF CERTAIN INDIAN LAND.—Nothing in this section permits the conduct of gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) on land described in section 123 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (114 Stat. 944), or land that is contiguous to that land, regardless of whether the land or contiguous land has been taken into trust by the Secretary of the Interior.

SEC. 122. No funds appropriated for the Department of the Interior by this Act or any other Act shall be used to study or implement any plan to drain Lake Powell or to reduce the water level of the lake below the range of water levels required for the operation of the Glen Canyon Dam.

SEC. 123. Notwithstanding the limitation in subparagraph (2)(B) of section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(a)), the total amount of all fees imposed by the National Indian Gaming Commission for fiscal year 2007 shall not exceed $12,000,000.

SEC. 124. Notwithstanding any implementation of the Department of the Interior's trust reorganization or reengineering plans, or the implementation of the ''To Be'' Model, funds appropriated for fiscal year 2006 shall be available to the tribes within the California Tribal Trust Reform Consortium and to the Salt River Pima-Maricopa Indian Community, the Confederated Salish and Kootenai Tribes of the Flathead Reservation and the Chippewa Cree Tribe of the Rocky Boys Reservation through the same methodology as funds were distributed in fiscal year 2004. This Demonstration Project shall continue to operate separate and apart from the Department of the Interior's trust reform and reorganization and the Department shall not impose its trust management infrastructure upon or alter the existing trust resource management systems of the above referenced tribes having a self-governance compact and operating in accordance with the Tribal Self-Governance Program set forth in 25 U.S.C. 458aa–458hh: *Provided*, That the California Trust Reform Consortium and any other participating tribe agree to carry out their responsibilities under the same written and implemented fiduciary standards as those being carried by the Secretary of the Interior: *Provided further*, That they demonstrate to the satisfaction of the Secretary that they have the capability to do so: *Provided further*, That the Department shall provide funds to the tribes in an amount equal to that required by 25 U.S.C. 458cc(g)(3), including funds specifically or functionally related to the provision of trust services to the tribes or their members.

SEC. 125. Notwithstanding any provision of law, including 42 U.S.C. 4321 et. seq., nonrenewable grazing permits authorized in the Jarbidge Field Office, Bureau of Land Management within the past 9 years, shall be renewed. The Animal Unit Months contained in the most recently expired nonrenewable grazing permit, authorized between March 1, 1997, and February 28, 2003, shall continue in effect under the renewed permit. Nothing in this section shall be deemed to extend the nonrenewable permits beyond the standard 1-year term.

SEC. 126. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to acquire lands, waters, or interests therein including the use of all or part of any pier, dock, or landing within the State of New York and the State of New Jersey, for the purpose of operating and maintaining facilities in the support of transportation and accommodation of visitors to Ellis, Governors, and Liberty Islands, and of other program and administrative activities, by donation or with appropriated funds, including franchise fees (and other monetary consideration), or by exchange; and the Secretary is authorized to negotiate and enter into leases, subleases, concession contracts or other agreements for the use of such facilities on such terms and conditions as the Secretary may determine reasonable.

SEC. 127. Upon the request of the permittee for the Clark Mountain Allotment lands adjacent to the Mojave National Preserve, the Secretary shall also issue a special use permit for that portion of the grazing allotment located within the Preserve. The special use permit shall be issued with the same terms and conditions as the most recently-issued permit for that allotment and the Secretary shall consider the permit to be one transferred in accordance with section 325 of Public Law 108–108.

SEC. 128. Notwithstanding any other provision of law, the National Park Service final winter use rules published in part VII of the Federal Register for November 10, 2004, 69 Fed. Reg. 65348 et seq., shall be in force and effect for the winter use season of 2005–2006 that commences on or about December 15, 2005.

SEC. 129. None of the funds in this Act may be used to compensate more than 34 full time equivalent employees in the Department's Office of Law Enforcement and Security. The total number of staff detailed from other offices and reimbursable staff may not exceed 8 at any given time.

TITLE II—ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $85,000 per project, $765,340,000 which shall remain available until September 30, 2007.

AMENDMENT NO. 4 OFFERED BY MR. TERRY

Mr. TERRY. 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 Mr. TERRY:

In the item relating to ''ENVIRONMENTAL PROTECTION AGENCY—SCIENCE AND TECHNOLOGY'', after the second dollar amount, insert the following: ''(reduced by $130,000,000)''.

In the item relating to ''ENVIRONMENTAL PROTECTION AGENCY—HAZARDOUS SUBSTANCE SUPERFUND'', after the second dollar amount, insert the following: ''(increased by $130,000,000)''.

The Acting CHAIRMAN. Pursuant to the order of the House today, the gentleman from Nebraska (Mr. TERRY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. TERRY).

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

Mr. Chairman, my amendment increases the EPA's Superfund dollars by 10 percent over the amount in the underlying bill. This extra funding would help provide the cleanup of the Nation's worst hazardous waste sites.

I thank the gentlemen from North Carolina (Mr. TAYLOR) and Washington (Mr. DICKS) for the $11 million Superfund increase in the committee-approved bill, but I believe more should be done.

My amendment provides Superfund with an additional $130 million. This extra funding is offset from the EPA's Science and Technology Account which received $765 million in the committee-approved bill.

My district is home to one of America's largest residential environmental cleanups. In early 2003, a large section of East Omaha, Nebraska was placed on the Superfund list after hundreds of children and thousands of yards tested positive for high lead levels. A nearby lead-refining plant, which operated from the early 1870s until 1997, is likely to blame for what HHS estimates to be as many as 1,600 children in eastern Omaha with harmful levels of lead there in their bodies.

Let me be clear. I support the philosophy of polluter pays. While I am encouraged that more than 70 percent of all Superfund sites are cleaned up by those responsible for the pollution; in some cases, such as in my district, Omaha, Nebraska, and in about 20 other States other than Nebraska, those who did the actual polluting are either insolvent or no longer in business.

More dollars in the national Superfund is the only hope for 86,000 Omaha residents, including 15,000 children who live within the Superfund designated area. Without adequate funds, this cleanup could take more than a decade. These children and these families should not wait that long.

But the same is true for the other 1,243 Superfund sites across this country. Nationwide, it is estimated that 11 million people, including 3 million to 4 million children, live within a mile of a hazardous Superfund site. All these Americans need assurances that sufficient resources will be dedicated to their cleanups.

Some will oppose the amendment. I expect the chairman of the subcommittee, my friend, the gentleman from North Carolina, to perhaps oppose this amendment. Now, while I support the EPA's Science and Technology Account, it is not my mission to destroy this fund, but simply create or state what the priorities should be, and that should be to clean up these hazardous areas in the fastest time possible to protect those families.

Make no mistake: the Superfund needs more than these additional funds. It also needs structural reform. Earlier this year, I introduced what would not only boost the Superfund by $620 million over 5 years, but would also cap the Superfund's administrative costs at the 2002 fiscal level so that more Superfund dollars could be spent for actual cleanup. This is in response to a recent report by the EPA Inspector General revealing that the Superfund administrative expenses have increased $37 million over the last 5 years, while actual Superfund cleanup expenditures have decreased by $174 million.

Today, however, we must focus on the funding of this vital program. I urge my colleagues, especially my colleagues who have Superfund sites in their districts, one of the 1,243 sites, to support this amendment. It is time we dedicate the resources necessary to protect our children by cleaning up the Nation's worst and pressing environmental and health risks in a timely fashion.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

The amendment would increase funding for the Superfund program at the expense of EPA's research program funded under the Science and Technology Account.

I note that the Superfund program received an $8 million increase over the 2005 level under the committee's recommendations, while the total amount for EPA is $348 million below the 2005 level, so the Superfund site received much better treatment than most of our programs. The bill as a whole is more than $800 million below the 2005 level.

Now, we have received many requests from Members of Congress asking that we fund programs for EPA's research, and we are able to do so only to a limited extent, and many people want the science and technology area just as well. A cut of the $130 million in science and technology would decimate the program's restorations. These research programs provide critical support to all other EPA programs, including the Superfund program.

The Superfund program was treated the same as the Science and Technology Account in that limited increases were provided for proposed initiatives associated with homeland security. The committee bill balances the many competing needs of the EPA within a constrained allocation. And while I understand the gentleman's concern, given the funding we have already done and the limited funding we have totally, I cannot accept the gentleman's amendment. I urge a ''no'' vote on this amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I rise in opposition to the gentleman's amendment. In general, I do think we should fund the Superfund cleanup program at levels higher than what is contained in this bill. However, the budget allocation that we are dealing with today prohibits us from agreeing to the gentleman's proposal to increase Superfund by a whopping $130 million at the expense of the EPA's science and technology programs, which he uses as an offset.

This bill provides Superfund with $1.26 billion for 2006, which is an $11 million increase over this year's funding level. I understand that there are transfers contained in this bill from the Superfund program to EPA science and technology research and to the EPA Inspector General's Office, but these transfers are for Superfund-related activities.

I urge a ''no'' vote on this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve the balance of my time.

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

Mr. Chairman, I certainly respect my friends from Washington and North Carolina, and I understand the delicacy of the numbers which have been assigned to these respective programs.

I stand here for the families that are affected in these, or next to these, Superfund sites, including the constituents in my district and their children, the 1,600 children estimated to have high levels of lead in their bloodstreams, creating immediate risk and health risks to them. Immediate, now.

The fund, the science and technology fund, does provide a great service to America, including the $60 million worth of earmarks to a lot of our universities, as well as paying the salaries for 2,513 bureaucrats within this agency.

□ 1545

My thought is that perhaps for this one time we can just slide a little bit of their $765 million budget to the more immediate and pressing health issues facing constituents, our constituents, and American families, and that is what I am here asking.

I understand the delicacy of balancing these type of numbers in this type of bill. So I do ask that my colleagues, for the sake of these families that have immediate health risks, that we increase the number of dollars by $130 million to begin cleanup or continue at a faster pace the cleanups that have already begun in those areas.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, may I inquire if there are other speakers?

The Acting CHAIRMAN (Mr. FOSSELLA). The gentleman from Nebraska (Mr. TERRY) has yielded back.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. TERRY).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. TERRY. 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 Nebraska (Mr. TERRY) will be postponed.

The Clerk will read.

The Clerk read as follows:

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related

costs and travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $85,000 per project; and not to exceed $9,000 for official reception and representation expenses, $2,389,491,000, which shall remain available until September 30, 2007, including administrative costs of the brownfields program under the Small Business Liability Relief and Brownfields Revitalization Act of 2002.

AMENDMENT OFFERED NO. 17 BY MR. GRIJALVA

Mr. GRIJALVA. 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. 17 offered by Mr. GRIJALVA:

Page 64, line 17, after the dollar amount, insert the following: ''(increased by $1,903,000) (decreased by $1,903,000)''.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Arizona (Mr. GRIJALVA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona (Mr. GRIJALVA).

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

Mr. Chairman, I rise today to offer an amendment that shifts funding within the EPA environmental program and management account.

Although the rules of the House prevent me from specifying in the amendment where the funding will go, it is my intention to restore funding for EPA's environmental justice program.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. GRIJALVA. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, we would accept the gentleman's amendment.

Mr. GRIJALVA. Mr. Chairman, I want to thank the chairman and the ranking member.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. GRIJALVA).

The amendment was agreed to.

The Clerk will read.

The Clerk read as follows:

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $85,000 per project, $37,955,000 to remain available until September 30, 2007.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, $40,218,000 to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111(c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $85,000 per project; $1,258,333,000, to remain available until expended, consisting of such sums as are available in the Trust Fund upon the date of enactment of this Act as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and up to $1,258,333,000 as a payment from general revenues to the Hazardous Substance Superfund for purposes as authorized by section 517(b) of SARA, as amended: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further*, That of the funds appropriated under this heading, $13,536,000 shall be transferred to the ''Office of Inspector General'' appropriation to remain available until September 30, 2007, and $30,606,000 shall be transferred to the ''Science and technology'' appropriation to remain available until September 30, 2007.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $85,000 per project, $73,027,000, to remain available until expended.

OIL SPILL RESPONSE

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $15,863,000, to be derived from the Oil Spill Liability trust fund, to remain available until expended.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OBEY:

On page 66 after line 20, insert the following new section:

CLEAN WATER STATE REVOLVING FUND

(INCLUDING REVENUE OFFSETS)

In addition to amounts otherwise made available in this Act, $500,000,000 shall be available for making capitalization grants for the Clean Water State Revolving Fund under title IV of the Federal Water Pollution Control Act, as amended: Provided, that, notwithstanding provisions of the Economic Growth and Tax Relief Act of 2001 and the Jobs and Growth Tax Relief Reconciliation Act of 2003, in the case of taxpayers with adjusted gross income in excess of $1,000,000 for calendar year 2006, the amount of tax reduction resulting from such acts shall be reduced by 1.562 percent.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Wisconsin (Mr. OBEY) and a Member opposed each will control 5 minutes.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, I would like to reserve a point of order.

The Acting CHAIRMAN. The gentleman from North Carolina reserves a point of order.

Mr. OBEY. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, several weeks ago this House chose to make $140,000 tax cuts for persons who make more than a million dollars a year a higher priority than dealing with the $300 billion-plus backlog that our States and communities have in dealing with their sewer and water problems.

When I came to this Congress, the population of this country was 203 million people and our principal program to attack the lack of clean water was a multi-billion dollar grant program to local communities.

Today, our population is 35 percent higher, and yet we have moved principally to a loan program to our local communities represented by the Clean Water Revolving Fund.

And yet, despite that huge population increase, that huge increase in demand, the committee has chosen to cut this key program by 40 percent over a 2-year period. I am simply asking this House to reconsider its earlier priority decision. I am asking them to approve an amendment that will scale back that $140,000 tax cut to $138,000.

What do we do with that money? Do we expand the clean water program? No. All we are trying to do is to bring it back to the level that it was at 2 years ago before we went on this cutting binge. I know that this amendment is subject to a point of order, because the Rules Committee chose not to protect it.

I would hope, however, that no Member of the House would lodge that point of order. If they do not, we would be able to make this priorities change and send it on to the Senate. It seems to me that if you ask any man or woman on the street in this country whether they think it is more important to provide a $140,000 tax cut for the most fortunate 1 percent of people in this country or whether they would be willing to settle for a $138,000 tax cut so we have enough money in the budget to clean up our dirty water for our local communities, they would certainly choose the latter.

I am tired of reading headlines in newspapers like the Milwaukee Journal, for instance, reporting on the cryptosporidium outbreak in Milwaukee because of a bad sewer and water system. I am tired of seeing communities dump their overflow sewage into Lake Michigan or Lake Superior or any other lake in this country every time they have a storm.

It is about time that we make mature choices, and I think this amendment is an effort to push the Congress into making one.

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

POINT OF ORDER

Mr. TAYLOR of North Carolina. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill, and therefore violates clause 2, rule XXI.

The rule states, in pertinent part, an amendment to a general appropriations bill shall not be in order in changing existing law, the amendment modifies existing powers and duties.

I ask for a ruling from the Chair.

The Acting CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. OBEY. Yes, I do, Mr. Chairman.

Mr. Chairman, the purpose of the Budget Act was to force the Congress to make tough trade-off choices, by making trade-offs between individual programs on the spending side and by making trade-offs between revenue levels and spending levels.

The problem with the way the budget process is being approached these days is that instead of forcing Congress to look at those trade-offs clearly, the process has been fragmented so that spending decisions occur at one point in the year, revenue decisions occur at another, and the public is therefore never aware of the connection that exists between the two.

Unfortunately, because that is the way the majority has proceeded it means that this amendment is subject to a point of order if any Member chooses to make one, and so I very regretfully concede the point of order.

The Acting CHAIRMAN. The point of order is conceded and sustained.

The Clerk will read.

The Clerk read as follows:

STATE AND TRIBAL ASSISTANCE GRANTS

(INCLUDING RESCISSIONS OF FUNDS)

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, $3,127,800,000, to remain available until expended, of which $750,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended (the ''Act''), of which up to $50,000,000 shall be available for loans, including interest free loans as authorized by 33 U.S.C. 1383(d)(1)(A), to municipal, intermunicipal, interstate, or State agencies or nonprofit entities for projects that provide treatment for or that minimize sewage or stormwater discharges using one or more approaches which include, but are not limited to, decentralized or distributed stormwater controls, decentralized wastewater treatment, low-impact development practices, conservation easements, stream buffers, or wetlands restoration; $850,000,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act, as amended, except that, notwithstanding section 1452(n) of the Safe Drinking Water Act, as amended, none of the funds made available under this heading in this Act, or in previous appropriations Acts, shall be reserved by the Administrator for health effects studies on drinking water contaminants; $50,000,000 shall be for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; $15,000,000 shall be for grants to the State of Alaska to address drinking water and waste infrastructure needs of rural and Alaska Native Villages; $200,000,000 shall be for making grants for the construction of drinking water, wastewater and storm water infrastructure and for water quality protection (''special project grants'') in accordance with the terms and conditions specified for such grants in the joint explanatory statement of the managers accompanying this Act, and, for purposes of these grants, each grantee shall contribute not less than 45 percent of the cost of the project unless the grantee is approved for a waiver by the Agency; $95,500,000 shall be to carry out section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including grants, interagency agreements, and associated program support costs; $4,000,000 shall be for a grant to Puerto Rico for drinking water infrastructure improvements to the Metropolitano community water system in San Juan; $10,000,000 for cost-shared grants for school bus retrofit and replacement projects that reduce diesel emissions: *Provided*, That beginning in fiscal year 2006 and thereafter, the Administrator is authorized to make such grants, subject to terms and conditions as the Administrator shall establish, to State, tribal, and local governmental entities responsible for providing school bus services to one or more school districts; and $1,153,300,000 shall be for grants, including associated program support costs, to States, federally recognized tribes, interstate agencies, tribal consortia, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities, including activities pursuant to the provisions set forth under this heading in Public Law 104–134, and for making grants under section 103 of the Clean Air Act for particulate matter monitoring and data collection activities of which and subject to terms and conditions specified by the Administrator, of which $52,000,000 shall be for carrying out section 128 of CERCLA, as amended, and $20,000,000 shall be for Environmental Information Exchange Network grants, including associated program support costs, and $15,000,000 shall be for making competitive targeted watershed grants: *Provided further*, That for fiscal year 2006, State authority under section 302(a) of Public Law 104–182 shall remain in effect: *Provided further*, That notwithstanding section 603(d)(7) of the Act, the limitation on the amounts in a State water pollution control revolving fund that may be used by a State to administer the fund shall not apply to amounts included as principal in loans made by such fund in fiscal year 2006 and prior years where such amounts represent costs of administering the fund to the extent that such amounts are or were deemed reasonable by the Administrator, accounted for separately from other assets in the fund, and used for eligible purposes of the fund, including administration: *Provided further*, That for fiscal year 2006, and notwithstanding section 518(f) of the Act, the Administrator is authorized to use the amounts appropriated for any fiscal year under section 319 of that Act to make grants to Indian tribes pursuant to sections 319(h) and 518(e) of that Act: *Provided further*, That for fiscal year 2006, notwithstanding the limitation on amounts in section 518(c) of the Act, up to a total of 1½ percent of the funds appropriated for State Revolving Funds under title VI of that Act may be reserved by the Administrator for grants under section 518(c) of that Act: *Provided further*, That no funds provided by this legislation to address the water, wastewater and other critical infrastructure needs of the colonias in the United States along the United States-Mexico border shall be made available to a county or municipal government unless that government has established an enforceable local ordinance, or other zoning rule, which prevents in that jurisdiction the development or construction of any additional colonia areas, or the development within an existing colonia the construction of any new home, business, or other structure which lacks water, wastewater, or other necessary infrastructure: *Provided further*, That, notwithstanding any other provision of law, such funds that were appropriated under this heading for special project grants in fiscal year 2000 or before and for which the Agency has not received an application and issued a grant by September 30, 2006, shall be made available to the Clean Water or Drinking Water Revolving Fund, as appropriate, for the State in which the special project grant recipient is located: *Provided further*, That excess funds remaining after completion of a special project grant shall be made available to the Clean Water or Drinking Water Revolving Fund, as appropriate, for the State in which the special project grant recipient is located: *Provided further*, That in the event that a special project is determined by the Agency to be ineligible for a grant, the funds for that project shall be made available to the Clean Water or Drinking Water Revolving Fund, as appropriate, for the State in which the special project grant recipient is located: *Provided further*, That, notwithstanding any other provision of law, heretofore and hereafter, after consultation with the House and Senate Committees on Appropriations and for the purpose of making technical corrections, the Administrator is authorized to award grants under this heading to entities and for purposes other than those listed in the joint explanatory statements of the managers accompanying the Agency's appropriations Acts for the construction of drinking water, wastewater and storm water infrastructure and for water quality protection.

POINTS OF ORDER

Mr. GILLMOR. Mr. Chairman, I rise to make a point of order.

The Acting CHAIRMAN. The gentleman will state his point of order.

Mr. GILLMOR. Mr. Chairman, I make a point of order to the language beginning with quote, except that notwithstanding section 1452(n) on page 67, line 17 through water contaminants on line 22, violates clause 2 of rule XXI of the rules of the House of Representatives prohibiting legislation on appropriation bills.

The language that I have cited says that notwithstanding the provisions of the Safe Drinking Water Act none of the money in the fiscal year 2005 Department of Interior appropriations bill or even previous appropriations acts may be reserved by the EPA Administrator for health effects studies on drinking water contaminants.

This language clearly constitutes legislating on an appropriations bill, and as such, violates clause 2 of rule XXI.

The Acting CHAIRMAN. Does any Member wish to be heard on the point of order? If not the Chair will rule.

The Chair finds that the provision explicitly supersedes existing law. The provision therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained and the provision is stricken from the bill.

Mr. GILLMOR. Mr. Chairman, I have two more points of order.

The Acting CHAIRMAN. The gentleman will state his point of order.

Mr. GILLMOR. Mr. Chairman, I make a point of order to the language beginning with, that beginning in fiscal year 2006 on page 68 line 23, through school districts on page 69 line 3 violates clause 2 of rule XXI of the rules of the House of Representatives prohibiting legislation on appropriation bills.

The language that I have cited authorizes the Administrator of the EPA to set terms and conditions for grants concerning the retrofitting and replacement of diesel engines in school bus services that contract with communities.

This language clearly constitutes legislating on an appropriations bill, and as such violates clause 2 of rule XXI.

The Acting CHAIRMAN. Does any Member wish to be heard on the point of order?

Hearing none, the Chair will rule.

The Chair finds that this provision includes language conferring authority. The provision therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained and the provision is stricken from the bill.

Mr. GILLMOR. Point of order, Mr. Chairman.

The Acting CHAIRMAN. The gentleman will state his point of order.

Mr. GILLMOR. Mr. Chairman, I make a point of order that the language beginning with, quote, that for fiscal year 2006 on page 69, line 19 through ''further'' on line 22 violates clause 2 of rule XXI of the House of Representatives prohibiting legislation on appropriations bills.

The language that I have cited provides for State authority to remain in effect under section 302(a) of Public Law 104–182 allowing States to swap a portion of their drinking water and waste water trust funds between accounts.

This language clearly constitutes legislating on an appropriations bill and as such violates clause 2 of rule XXI.

The Acting CHAIRMAN. Does any Member wish to be heard on the point of order? Hearing none the Chair will rule.

The Chair finds that this provision includes language conferring authority. The provision therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. The provision is stricken from the bill.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OBEY:

1. On page 67, line 1 with respect to the funding level for the Clean Water State Revolving Fund, strike the figure $750,000,000 and insert $850,000,000.

2. On page 68, line 5 strike the figure $200,000,000 and insert $100,000,000:

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Wisconsin (Mr. OBEY) and the gentleman from North Carolina (Mr. TAYLOR) each will control 10 minutes.

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

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

Mr. Chairman, unlike the previous amendment, which I would have preferred, this amendment is not subject to a point of order. And let me explain what it does.

This amendment simply eliminates one-half of the cut that the committee recommendation would make in the Clean Water Revolving Fund, and pays for it by taking $100 million out of STAG grants.

Now, I know everyone in this House likes STAG grants. I like them myself. The problem is that if you take a look at last year's committee report, for instance, you will find over 10 pages listing hundreds of individual tiny grants, $75,000, $100,000, $125,000 a piece, tiny little grants to communities all over the country to supposedly help them pay for their sewer and water problems.

□ 1600

The problem is that we are fooling ourselves because those STAG grants are being paid for by reductions in the basic loan program that we use to assist communities all over the country deal with the same problem.

What it means is that each Member is able to go home and dangle a little grant that we have gotten for our district—and I have done it myself, I will get whatever money I can for my district—but we go home and dangle that tiny little bit of money when, in fact, what we need is to have a major increase in the loan program that every community in this country applies for from time to time.

The fact is that the Clean Water State Revolving Fund is the crucial program for helping local communities with sewage treatment plants infrastructure. It is a keystone of the Clean Water Act; and yet this committee is recommending with the cut in the bill this year that we effectively cut this program by 40 percent over 2 years. It was already cut 19 percent last year. I think that is a terrible, terrible decision to make.

Our communities have more than $300 billion in backlog requirements to clean up their sewer and water systems. There are communities in my district that right now are having difficulty, for instance, even allowing the Park Service to attach its new headquarters to the sewage system in one of the cities in my district because that system is so out of compliance that the State Department of Natural Resources is urging that they hook up no further users.

We have seen, as I said earlier, stories of overflow, sewage overflow every time there is a huge storm. In the Milwaukee Journal, there was a picture of a huge sewage plume in Lake Michigan after heavy storms just last year.

We are being incredibly negligent if we do not add money to this fund, rather than cut it; and yet today, because of the budget resolution, we are prevented from adding money. We would at least like to reduce the size of the cut by 50 percent, by moving money over from the STAG grant program.

As I say, I have nothing against the STAG grant program, but if you fund STAG grants by cutting your basic loan program, you are literally robbing Peter to pay Peter, and I think that makes no sense whatsoever.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

The amendment would increase the Clean Water State Revolving Fund by $100 million and cut special project grants under the State and Tribal Assistance programs by $100 million.

The committee's recommendation for the Clean Water State Revolving Fund is identical to the level in the House bill for this program in fiscal year 2005.

Almost every Member of Congress wrote to the subcommittee requesting one or more STAG projects. These projects are often the only recourse for rural communities that, for whatever reason, are unable to qualify for a loan under the Clean Water or Drinking Water revolving funds.

I admire the gentleman from Wisconsin's (Mr. OBEY) willingness to sacrifice special STAG projects to increase the Clean Water Fund. The Committee has a very difficult time in making these decisions. I do not believe it is an appropriate approach, given that these projects address critical infrastructure needs that otherwise might never be addressed, and I urge a ''no'' vote on this amendment.

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

The Acting CHAIRMAN (Mr. MCHUGH). The gentleman from Wisconsin (Mr. OBEY) has 6 minutes remaining.

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, this is one of the tougher issues in our bill. I feel that we are inadequately funding the State revolving grants, and this program goes out to each of the States and they are able to make loans to the local communities at low interest rates

in order to fund projects that are crucially important.

I know in my own district I have got cities like Shelton and Hoodsport, Belfair, Tacoma, all of which depend on this source of funding. STAG grants are important, and I support the program.

I wish we could do more in both areas. It is just unfortunate that, unlike when EPA was first created, we had 3 or $4 billion of funding for grants at a 90–10 Federal match; and yet we moved away from those programs. I do not believe we are funding this adequately. This means less money to the States and then less money goes out to the communities. I hope that as we go further in the process we can find a way to help correct this problem.

The gentleman from Wisconsin (Mr. OBEY) has his approach, which I am supporting; and I think this is one of the jobs that appropriators have to do. We have to make difficult choices, and this is a very difficult choice; but I think it is the correct one.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, how much time do I have left?

The Acting CHAIRMAN. The gentleman from Wisconsin (Mr. OBEY) has 4½ minutes remaining.

Mr. OBEY. Mr. Chairman, I yield 1½ minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, I want to thank the gentleman from Wisconsin (Mr. OBEY), my friend, for allowing me this time.

The purpose of these amendments, this one and the one previous to it, in part at least, is to demonstrate how misaligned the priorities of this Congress have become and how far we have devolved, how we have regressed from a period in the 1970s when the Clean Water Act was passed and this Congress demonstrated its concern and understanding of the environmental needs of our Nation.

In the last 3 years, this fund has been cut by almost 50 percent; and prior to those 3 years, it had been cut previously, leaving the States with little or no money to deal with the issue of clean water.

Thirty years ago, we recognized that the waters of this country should be swimable, fishable and drinkable. The waters of this country are becoming less so in each of those three categories as a result of the mismanagement of funding by this Congress, by the devolution of our philosophy in this Congress, and by the priorities set by the leadership of this Congress.

People in this country are experiencing conditions that are less safe, less secure, and less healthy as a result of the mismanagement of the people's funds. My colleagues are more concerned with cutting taxes for millionaires than providing safety and security and good drinking water for the American people. These priorities must change.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

I would repeat, the special grants program under STAG would be cut by $100 million under this amendment. As I mentioned, these projects are often the only recourse for rural communities that, for whatever reason, are unable to qualify for a loan under the Clean Water or Drinking Water state revolving funds.

It is a difficult decision in our bill in allocating money. The STAG grants are one way that we can answer the needs made by their representatives who are elected to this Congress. To oppose this, I think, is taking away the right of the membership to look in their districts for those needs which maybe go beyond the official needs, and I oppose this amendment and hope everyone else will also.

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

Mr. OBEY. Mr. Chairman, how much time do I have remaining?

The Acting CHAIRMAN. The gentleman from Wisconsin (Mr. OBEY) has 3 minutes remaining.

Mr. OBEY. Mr. Chairman, I yield myself the remainder of the time.

Mr. Chairman, I do not in any way criticize the subcommittee chairman for decisions he has made. The problem does not lie with his decisions. The problem lies with the budget resolution which imposes those decisions on him.

I certainly understand Members asking for STAG grants if that is their only access, and I have no objection to that, but my objection is simply this: the budget resolution, which the majority party voted for, decided that it was so important to provide tax cuts of $140,000 a year to people who make over a million bucks that they are willing to cut back the basic program that helps communities deal with their sewer and water problems by 40 percent over a 2-year period.

Then what they do after they have imposed those kind of cuts on this program, then they go to the STAG program. They get a tiny little $100,000 or $150,000 program for their districts. They go to their districts, they say, ''Oh, look, what a good boy am I, look what a friend I am for clean water.'' Meanwhile, the votes that they have cast on the budget resolution have gutted the ability of this Congress to provide meaningful help to communities who need real help on sewer and water.

I think we are sort of chasing our tail; and so, as the gentleman from Washington (Mr. DICKS) says, this is a very difficult priorities choice, and I do not fault the gentleman from North Carolina at all for the choice he has made. I think we have an obligation to try to put some more money back into the basic program first. That is what the amendment tries to do, and I would urge a ''yes'' vote.

Mr. LEVIN. Mr. Chairman, I rise in strong support of the Obey amendment. Three weeks ago, by a bare three-vote margin, the House of Representatives approved the Republican budget. Today, we're dealing with the consequences of that vote and the majority's misguided priorities. The budget that was agreed to contained more than $100 billion in additional cuts—the vast majority of which disproportionately benefit the very richest individuals in this country. At the same time, the budget calls for billions of dollars in spending cuts, nearly all of which were not specified.

Well, the chickens have come home to roost. The bill before the House contains a $241 million cut in Clean Water funding, a reduction of 22 percent. This cut comes on top of the Clean Water funding reductions that were approved last year.

There was a time during the 1970s and 1980s when the Federal Government provided most of the funding to upgrade water treatment plants and improve sewer infrastructure around this country. Today, there is really only one Federal program left to help communities improve sewer infrastructure to keep pollution out of our lakes, rivers and streams, and that's the Clean Water State Revolving Loan Program.

Let me tell you what this program has done in my district. In the mid-1990s, fourteen communities in my district were confronted with the difficult necessity of upgrading the Twelve Towns Drain. The problem was that whenever there was a significant storm in Southeastern Michigan, the Drain would quickly overflow and spill millions of gallons of partially treated sewage into the Clinton River. The result was deteriorating water quality in the Clinton River and beach closures at the River's terminus in Lake St. Clair.

The solution was to expand the retention basin to prevent the sewage overflows, but the cost was enormous: $130 million.

The Twelve Towns Drain improvements could not have been accomplished without the Clean Water State Revolving Fund. The communities involved with this project borrowed more than $100 million from the revolving fund. Giving these communities the ability to borrow the needed money at below-market interest rates is the least the Federal government could do, and that's what the State Revolving Fund makes possible. Thanks to the Revolving Loan Program, this massive water infrastructure effort will be completed later this year. This is an example of the kind of water quality work that will be sacrificed unless we approve this amendment.

Earlier this week, I received a letter from the Director of the Michigan Department on Environmental Quality. This is what he says: ''Discharges from aging and failing sewerage systems, urban storm water, and other sources continue to pose serious threats to Michigan's lakes, rivers, and estuaries, endangering our public health, tourism, and recreation areas.'' He goes on to say that the proposed State Revolving Fund cuts ''will likely severely impede the amount of water infrastructure projects that can be funded in the state of Michigan.''

There isn't a Member of this House who supports polluted waterways or beach closures, but there is a chasm between rhetoric and reality when it comes to providing the needed resources. If this Congress wants to be on the side of rivers, lakes and streams that are drinkable, swimmable and fishable, it's time to put your money where your mouth is. Vote for the Obey amendment.

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

Mr. TAYLOR of North Carolina. Again, I say this is a very difficult choice to make, and the committee has tried to be as bipartisan as possible.

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. OBEY).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. OBEY. 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 Wisconsin (Mr. OBEY) will be postponed.

AMENDMENT OFFERED BY MR. GILLMOR

Mr. GILLMOR. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GILLMOR:

Page 71, line 21, strike ''*Provided*'' and all that follows through page 72, line 6, and insert the following:

Provided further, That notwithstanding this or previous appropriations Acts, after consultation with the House and Senate Committees on Appropriations and for the purposes of making technical corrections, the Administrator is authorized to award grants to entities under this heading for purposes other than those listed in the joint explanatory statements of the managers accompanying the Agency's appropriations Acts for the construction of drinking water, waste water and storm water infrastructure, and for water quality protection.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Ohio (Mr. GILLMOR) and a Member opposed each will control 5 minutes.

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

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

I am offering this amendment today to clarify some language in the bill that is under the jurisdiction of the Committee on Energy and Commerce. It is a good amendment that I hope we can adopt today.

As part of the debate on this amendment, I would like to engage in a colloquy with the gentleman from North Carolina (Mr. TAYLOR), the chairman of the Subcommittee on the Interior, Environment and Related Agencies of the Committee on Appropriations.

First, however, let me thank the gentleman from North Carolina (Chairman Taylor) for his patience and express my appreciation both to him and to his staff for the fair way that they have worked with me and my staff to remove authorizing provisions in the appropriations bill, which are under the jurisdiction of the Committee on Energy and Commerce.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. GILLMOR. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I am pleased to work with the authorizing committee chairman.

I want to assure the chairman that I will work to remove or modify objectionable provisions under his jurisdiction as we move the bill into conference.

Mr. GILLMOR. Mr. Chairman, I thank the gentleman for this, and I also note that the amendment I am offering today represents a compromise on a provision dealing with corrections to the State and Tribal grants technical correction authority to make it clear that it applies solely to earmarked grants in the conference agreement that are incorporated by reference in the appropriations bill and that the authority does not apply to future appropriations.

□ 1615

I understand the chairman's need for language that allows him to conduct some technical housekeeping of some grant provisions in predecessor spending bills. I look forward to further discussions with him regarding the terms ''for other purposes'' to ensure that this language is clearly and narrowly understood as applying to corrections that are technical in nature and not broadly defined to include changes in policy.

Mr. TAYLOR of North Carolina. Mr. Chairman, if the gentleman will continue to yield, I have reviewed the gentleman's amendment and am willing to accept it. I have already notified the Senate of the changes we agreed upon with respect to the ''special projects'' correction authority, and I look forward to working with the gentleman as the bill moves forward this year and on future appropriation bills.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. GILLMOR. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to commend the gentleman. I think it is a good amendment and concur with our chairman that we should accept it.

Mr. GILLMOR. Mr. Chairman, reclaiming my time, I thank the chairman and the ranking member for their cooperation and support and I urge passage of the amendment.

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

The Acting CHAIRMAN (Mr. MCHUGH). The question is on the amendment offered by the gentleman from Ohio (Mr. GILLMOR).

The amendment was agreed to.

AMENDMENT NO. 13 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. 13 offered by Ms. EDDIE BERNICE JOHNSON of Texas:

Page 68, line 14, insert ''(increased by $2,000,000)'' after ''$95,500,000''.

Page 69, line 4, insert ''(reduced by $2,000,000)'' after ''$1,153,300,000''.

Page 69, line 14, insert ''(reduced by $2,000,000)'' after ''$52,000,000''.

The Acting CHAIRMAN. Pursuant to the order of the House of today, 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 of Texas).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment will provide an additional $2 million for brownfield assessments and cleanups, while fully funding grants for States to administer their voluntary cleanup programs.

The assessment and cleanup of brownfields are critical to the economic and environmental health of communities across the Nation. Brownfields represent lost opportunity where they exist.

In 2002, President Bush signed the Small Business Liability Relief and Brownfields Revitalization Act. That bill authorized $200 million annually in Federal assistance to States and local communities to assess brownfield sites and to conduct cleanup where the assessment indicated that cleanup was warranted. The law also authorized $50 million annually in grants to States to assist States in implementing voluntary cleanup programs.

The committees that wrote this legislation, the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce, following years of hearings, discussions and considerations, determined an assessment on cleanup of brownfields required at least $200 million annually and that State voluntary cleanup programs should be supported at $50 million annually.

The bill before the House provides $52 million for the State programs and only $95.5 million for assessment and cleanups. My amendment simply transfers this unauthorized $2 million in grants to the State bureaucracies to the actual assessment and cleanup of brownfield sites, and I believe that it will be more useful to do that.

When the President signed the Brownfields Revitalization Act in 2002, it represented the centerpiece of the administration's environmental agenda. It was widely praised and received broad bipartisan support. According to the Government Accountability Office, there are well over 500,000 brownfields across the country.

These abandoned and underused sites represent a blight to neighborhoods, pose health and safety threats, and create a drain on economic activity. Brownfield grants generate economic returns in excess of five to one.

The City of Dallas, which I represent, one of the first cities designated as a

Brownfield Showcase Community by the Environmental Protection Agency, has used assessment and remediation grant programs to redevelop 35 sites in the core of the city.

A Federal investment of less than $2 million has leveraged more than $370 million in private investment and created or helped to retain close to 3,000 permanent full-time jobs. Over 1,600 units of housing, including 134 units of affordable housing, have been developed on former brownfield sites. The program has brought new vitality to long distressed portions of the city, boosting the tax base and bringing important economic opportunities to the neighborhoods.

Unfortunately, this bill, and the administration budget request it represents, prefers to fund more State bureaucracy rather than more actual cleanup and economic redevelopment. Mr. Chairman, the inadequate funding level for cleanup that was in the President's budget is just another example of the administration touting authorization legislation and failing to follow through with the actual funding.

According to the Conference of Mayors, EPA regularly turns away about two-thirds of the applicants for brownfield assistance because of the lack of available funds. So I urge my colleagues to support the amendment.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise to claim the time in opposition to the amendment, and I yield 1 minute to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Chairman, I rise in support of the gentlewoman's amendment, and I thank the gentleman from North Carolina for yielding me this time.

This amendment will provide more funding for brownfield site assessments and cleanup and bring the appropriation for State voluntary cleanup programs in line with the level authorized by the Small Business Liability Relief and Brownfields Revitalization Act.

This Brownfields Revitalization Act was legislation which came through our Subcommittee on Water Resources and Environment, which I have the privilege to chair and on which the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) serves as the ranking minority member, and the Congress passed this legislation in 2002.

Brownfields cleanup and redevelopment are very important to our communities and the economy. There are hundreds of thousands of brownfield sites around the Nation waiting to be cleaned up. We need to continue directing funds toward cleaning up and revitalizing these sites by fully funding State voluntary cleanup programs.

The gentlewoman's amendment helps accomplish this goal, and I urge all Members to support this amendment.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume simply to say that with such persuasive statements from the gentlewoman and the gentleman from Tennessee, I have no objection to this amendment.

Mr. OBERSTAR. Mr. Chairman, I support the amendment offered by Ms. JOHNSON of Texas, the Ranking Democrat of the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure. The amendment moves $2 million from grants for state administrative expenses to grants for communities to conduct actual cleanup of contaminated brownfields.

The Bush administration has called the federal brownfields program, enacted by the Committee on Transportation and Infrastructure in 2001, "one of the administration's top priorities and a key to restoring contaminated sites to productive use." Yet, despite this praise, the administration's budget requests for the cleanup of brownfields demonstrate its lack of commitment to the cleanups necessary to reduce the risks to human health and the environment.

In fiscal year 2006, the administration requested $210 million for Environmental Protection Agency's brownfields program; however, of this amount, approximately 45 percent, or $90 million, is earmarked for Federal and state bureaucrats to manage the program. That leaves only $120 million of a $210 million request devoted to actual cleanups—shovels in the ground—and this bill further reduces that amount by about 20%.

Since 2001, the Bush administration has consistently requested far less than the fully-authorized levels for assessment and cleanups, yet attempts to take credit for fully-funding the brownfields program.

While the budgetary constraints of the House Republican Leadership prevent us from fully-funding brownfields cleanups, the amendment offered by the gentlewoman from Texas, Ms. JOHNSON, shifts dollars away from the management of the program to actual cleanups.

The amendment reduces, by $2 million, the amount appropriated for State Response programs under section 128 of the Superfund law to $50 million, the total authorized level of funding for these programs.

The amendment adds $2 million to the site assessment and cleanup portion of the brownfields program, raising this level from $95.5 million to $97.5 million. Under current law, the brownfields sites assessment and cleanup program is authorized at $200 million annually by section 104(k) of the Superfund law, so even this increase leaves the program at less than 50 percent of its authorized funding level.

Mr. Chairman, the brownfields program is critical for the restoration and reuse of the legacies of this Nation's industrial era, many of which have plagued our cities and communities for decades.

In this time of scarce Federal resources, it is important that we devote what limited dollars are available to actually accomplishing what the brownfields program set out to do over five years ago—redeveloping the underused and abandoned brownfields across this country.

I strongly support the amendment offered by Ms. JOHNSON, and urge my colleagues to vote "aye."

Mr. TAYLOR of North Carolina. 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. The Clerk will read.

The Clerk read as follows:

For an additional amount for the Clean Water State Revolving Fund, $100,000,000 shall be made available from the rescissions of multi-year and no-year funding, previously appropriated to the Environmental Protection Agency, the availability of which under the original appropriation accounts has not expired, and $100,000,000 in such funding is hereby rescinded: *Provided*, That such rescissions shall be taken solely from amounts associated with grants, contracts, and interagency agreements whose availability under the original period for obligation for such grant, contract, or interagency agreement has expired based on the April 2005 review by the Government Accountability Office.

ADMINISTRATIVE PROVISIONS

For fiscal year 2006, notwithstanding 31 U.S.C. 6303(1) and 6305(1), the Administrator of the Environmental Protection Agency, in carrying out the Agency's function to implement directly Federal environmental programs required or authorized by law in the absence of an acceptable tribal program, may award cooperative agreements to federally-recognized Indian Tribes or Intertribal consortia, if authorized by their member Tribes, to assist the Administrator in implementing Federal environmental programs for Indian Tribes required or authorized by law, except that no such cooperative agreements may be awarded from funds designated for State financial assistance agreements.

The Administrator of the Environmental Protection Agency is authorized to collect and obligate pesticide registration service fees in accordance with section 33 of the Federal Insecticide, Fungicide, and Rodenticide Act (as added by subsection (f)(2) of the Pesticide Registration Improvement Act of 2003), as amended.

Notwithstanding CERCLA 104(k)(4)(B)(i)(IV), appropriated funds for fiscal year 2006 may be used to award grants or loans under section 104(k) of CERCLA to eligible entities that satisfy all of the elements set forth in CERCLA section 101(40) to qualify as a bona fide prospective purchaser except that the date of acquisition of the property was prior to the date of enactment of the Small Business Liability Relief and Brownfield Revitalization Act of 2001.

For fiscal years 2006 through 2011, the Administrator may, after consultation with the Office of Personnel Management, make not to exceed five appointments in any fiscal year under the authority provided in 42 U.S.C. 209 for the Office of Research and Development.

TITLE III—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, $285,000,000, to remain available until expended: *Provided*, That of the funds provided, $62,100,000 is for the forest inventory and analysis program.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with and providing technical and financial assistance to States, territories, possessions, and

others, and for forest health management, including treatments of pests, pathogens, and invasive or noxious plants and for restoring and rehabilitating forests damaged by pests or invasive plants, cooperative forestry, and education and land conservation activities and conducting an international program as authorized, $254,875,000, to remain available until expended, as authorized by law of which $25,000,000 is to be derived from the Land and Water Conservation Fund: *Provided*, That none of the funds provided under this heading for the acquisition of lands or interests in lands shall be available until the Forest Service notifies the House Committee on Appropriations and the Senate Committee on Appropriations, in writing, of specific contractual and grant details including the non-Federal cost share: *Provided further*, That of the funds provided herein, $1,000,000 shall be provided to Custer County, Idaho for economic development in accordance with the Central Idaho Economic Development and Recreation Act, subject to authorization.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, $1,423,920,000, to remain available until expended, which shall include 50 percent of all moneys received during prior fiscal years as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 4601–6a(i)): *Provided*, That unobligated balances under this heading available at the start of fiscal year 2006 shall be displayed by budget line item in the fiscal year 2007 budget justification.

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, hazardous fuels reduction on or adjacent to such lands, and for emergency rehabilitation of burned-over National Forest System lands and water, $1,790,506,000, to remain available until expended: *Provided*, That such funds including unobligated balances under this heading, are available for repayment of advances from other appropriations accounts previously transferred for such purposes: *Provided further*, That such funds shall be available to reimburse State and other cooperating entities for services provided in response to wildfire and other emergencies or disasters to the extent such reimbursements by the Forest Service for non-fire emergencies are fully repaid by the responsible emergency management agency: *Provided further*, That not less than 50 percent of any unobligated balances remaining (exclusive of amounts for hazardous fuels reduction) at the end of fiscal year 2005 shall be transferred, as repayment for past advances that have not been repaid, to the fund established pursuant to section 3 of Public Law 71–319 (16 U.S.C. 576 et seq.): *Provided further*, That, notwithstanding any other provision of law, $8,000,000 of funds appropriated under this appropriation shall be used for Fire Science Research in support of the Joint Fire Science Program: *Provided further*, That all authorities for the use of funds, including the use of contracts, grants, and cooperative agreements, available to execute the Forest and Rangeland Research appropriation, are also available in the utilization of these funds for Fire Science Research: *Provided further*, That funds provided shall be available for emergency rehabilitation and restoration, hazardous fuels reduction activities in the urban-wildland interface, support to Federal emergency response, and wildfire suppression activities of the Forest Service: *Provided further*, That of the funds provided, $286,000,000 is for hazardous fuels reduction activities, $9,281,000 is for rehabilitation and restoration, $21,719,000 is for research activities and to make competitive research grants pursuant to the Forest and Rangeland Renewable Resources Research Act, as amended (16 U.S.C. 1641 et seq.), $41,000,000 is for State fire assistance, $8,000,000 is for volunteer fire assistance, $15,000,000 is for forest health activities on Federal lands and $10,000,000 is for forest health activities on State and private lands: *Provided further*, That amounts in this paragraph may be transferred to the ''State and Private Forestry'', ''National Forest System'', and ''Forest and Rangeland Research'' accounts to fund State fire assistance, volunteer fire assistance, forest health management, forest and rangeland research, vegetation and watershed management, heritage site rehabilitation, and wildlife and fish habitat management and restoration: *Provided further*, That transfers of any amounts in excess of those authorized in this paragraph, shall require approval of the House and Senate Committees on Appropriations in compliance with reprogramming procedures contained in the report accompanying this Act: *Provided further*, That funds provided under this heading for hazardous fuels treatments may be transferred to and made a part of the ''National Forest System'' account at the sole discretion of the Chief of the Forest Service thirty days after notifying the House and the Senate Committees on Appropriations: *Provided further*, That the costs of implementing any cooperative agreement between the Federal Government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: *Provided further*, That in addition to funds provided for State Fire Assistance programs, and subject to all authorities available to the Forest Service under the State and Private Forestry Appropriations, up to $15,000,000 may be used on adjacent non-Federal lands for the purpose of protecting communities when hazard reduction activities are planned on national forest lands that have the potential to place such communities at risk: *Provided further*, That the Secretary of the Interior and the Secretary of Agriculture may authorize the transfer of funds appropriated for wildland fire management, in an aggregate amount not to exceed $9,000,000, between the Departments when such transfers would facilitate and expedite jointly funded wildland fire management programs and projects: *Provided further*, That funds designated for wildfire suppression, shall be assessed for indirect costs, in a manner consistent with such assessments against other agency programs.

AMENDMENT OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TAYLOR of North Carolina:

On page 75, line 12, after the dollar amount, insert, ''(increased by $1,000,000)''.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from North Carolina (Mr. TAYLOR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment adds $1 million for the National Forest System, and I believe we have agreement on both sides.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I rise to advise that we do agree with the amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. TAYLOR).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. BEAUPREZ

Mr. BEAUPREZ. 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. BEAUPREZ:

In title III of the bill under the heading ''WILDLAND FIRE MANAGEMENT (INCLUDING TRANSFER OF FUNDS)'', insert after the first dollar amount on Page 76 the following ''(increased by $27,500,000)''

Insert after the first dollar amount on page 77 ''(increased by $27,500,000)''

In title III of the bill in the item relating to ''NATONAL ENDOWMENT FOR THE ARTS—GRANTS AND ADMINISTRATION'', insert after the first dollar amount on Page 106 the following ''(reduced by 30,000,000)''

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Colorado (Mr. BEAUPREZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado (Mr. BEAUPREZ).

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

Mr. Chairman, this amendment would reduce funding for the National Endowment of the Arts by $30 million and transfer the funds to the United States Forest Service for thinning projects to reduce the threat of catastrophic wildfires.

As Members of this Chamber will certainly remember, the summers of 2000 and 2002 were the two largest and most destructive fire seasons in the last 50 years. According to information presented by the United States Forest Service Chief, Dale Bosworth, in 2002, some 73 million acres of the 192 million acres managed by the United States Forest Service remain at risk to catastrophic wildfire. That is greater than the size of the entire State of Arizona.

The Wall Street Journal reported that parts of the National Forest System contain more than 400 tons of dry fuel per acre, or 10 times the manageable or appropriate level. Disease and insect infestations have also attributed

to an increase in combustible fuels. In Colorado alone, surveys have recorded that approximately 1.2 million trees have been killed by mountain pine beetle outbreaks in 2004. This is nearly 100 times the mortality rate reported in 1996.

This is the kind of timber that turns small fires into kinds of infernos that have devastated Colorado and other western States in recent years, destroying homes, poisoning the air, scorching critical habitat, and choking streams and rivers with tons of soot and sediment.

Positive steps have been made recently, most notably the passage of the Healthy Forest Act, which enabled forest managers to begin the process of restoring our forests to more sustainable and natural states. This legislation has helped land managers cut through the red tape that has delayed badly needed thinning projects.

However, even with increased attention to thinning and fuels treatment efforts, more funding is needed. Since the majority of our forests are federally owned, the burden to protect our States and local communities from the devastating effects of forest fires lies with the Federal agencies designated to protect them. Congress must fully fund their needs.

While cooler temperatures and increased moisture have brought some relief to the West this past winter, we cannot forget the need to continue to support responsible forest management. Another dry season is just one hot summer away. The human consequences from past fires have taught us we must continue to be proactive with our forest management. It far outweighs the devastating economic, ecological, and social cost of forest fires.

In 2002, hundreds of homes and other structures were destroyed and thousands more were evacuated. Twenty-three firefighters lost their lives, and the American taxpayer spent in excess of $1.5 billion containing 2002's record-setting blazes. Rural economies that rely on tourism suffered significant losses.

This amendment is a modest attempt to provide additional funding that can be used on the ground immediately in a way that will help ensure cleaner air and water, protection of sensitive ecosystems, keep western communities safe from catastrophic wildfire, and improve the health of our forests and watersheds. Simply, it reduces funding for the NEA by $30 million and transfers funds to the United States Forest Service for thinning projects.

The question arises, why take funds from the NEA. I applaud the progress that has been made recently by the NEA in repairing a very damaged image in the view of many Americans. One of my sons is actually a student of the arts, and my wife and I are certainly avid arts supporters and particularly appreciate ''public art.''

□ 1630

However, a very small percentage of artistic funds comes from the Federal Government. Still, since fiscal year 2000, NEA funding from the Federal Government has increased by 19 percent. In 2001, the NEA budget as a percentage of total revenues in the nonprofit arts sector was less than 0.4 percent.

Most of the funding happens to come from everyday patrons of the arts who enjoy them, philanthropists and corporate donations that foster the development of artistic communities.

I commend these individuals and organizations for doing so. However, it should be a greater priority of Congress to ensure the safety of our western communities, prevent forest fires, and save lives rather than spend taxpayer dollars for artistic endeavors, enjoyable as they may be.

When Congress spends so much annually to put out wildfires, does it not make more sense to spend that money on additional thinning treatments that could help prevent forest fires from starting in the first place? I was pleased when the Healthy Forest Initiative was passed by Congress and signed into law by the President. However, I worried that we still lacked the economic incentives that could make the management of our forests, the removal of dead fuel for an inferno, an opportunity. That incentive now exists.

Mr. Chairman, I urge adoption of this amendment and ask my colleagues to join me in voting ''aye.''

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise to claim the time in opposition, and I yield myself such time as I may consume.

I share the gentleman's concern for forests. The Department of the Interior bill has focused on forest health and wildlife management. We have large increases for the most important parts of the national fire plan. The bill has substantially increased due to the administration's Healthy Forest and National Fire Plan Initiatives. The bill has a $33 million increase in funding over the last year for hazardous fuel management. This is a serious increase. We have increased hazardous fuel funding dramatically in the last 4 years. It is not clear that the proposed increase could be used efficiently.

I share the gentleman's interest in caring for public lands. A large part of my district is national forests and national parks, so I understand we need to take care of this important land.

The Department of the Interior bill also increases funding for other wildlife programs and forest health management. This is a tight allocation, and I think we have done a careful balancing act. As I opposed the amendment to increase funding in the arts earlier, trying to balance our concerns, I must also reluctantly oppose this amendment.

Mr. Chairman, I yield the balance of my time to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I rise in strong opposition to the gentleman's amendment. Make no mistake, the principle purpose of this amendment is to cut the National Endowment for the Arts. I absolutely share the gentleman's concern that the forest system and BLM have sufficient funding to meet the challenge of fighting fires.

In fact, last year I worked closely with the gentleman from North Carolina (Chairman TAYLOR) to provide 2 years of emergency funding to fight wildfires which totaled $1 billion. This bill does not contain that emergency money, but non-emergency firefighting is increased by $116 million when compared to the non-emergency funding in 2005. Of course, I do worry that an extremely bad fire season could exhaust this increased funding. However, I do not think the NEA is the place to augment firefighting funding. But again, I think the purpose of this amendment is more to raise issues about the NEA.

I appreciate the gentleman saying he is a supporter of the arts. I wish we had the emergency money that we have had the last 2 years, but we do not. I think I would say to the gentleman as we look and see how the season unfolds, we may have to do something further in conference; but I think this amendment is the wrong approach. I strongly support our chairman and urge that the committee defeat the amendment.

Mr. DEFAZIO. Mr. Chairman, I have always been a strong supporter of funding for arts programs and will continue to be. The arts community in my district is vibrant, and funding for the National Endowment for the Arts is an invaluable part of education and social enrichment throughout Oregon. I was pleased to see the amendment offered by Congresswoman SLAUGHTER and Ranking Member DICKS, which would increase funding for the NEA, approved by a voice vote.

But we have an unresolved crisis on our public lands that needs to be addressed. A lot of members would probably like to believe that by passing the Healthy Forests restoration Act, Congress solved the forest health and hazardous fuel build-up problem. Nothing could be further from the truth.

I fought hard to get funding for fuel reduction projects included as part of HFRA. That bill eventually authorized $760 million annually for critical fuel reduction, but Congress hasn't even begun to approach that commitment as evidenced by the appropriations bill we're considering today.

This Interior bill contains $211 million in hazardous fuel reduction for the Bureau of Land Management and $286 million for the Forest Service. That's an increase of $9.8 million and $23.5 million respectively. I very much appreciate the Chairman and Ranking Member for including these increases in the bill, but they fall far short of what is needed to reduce hazardous fuel and the yearly threat of wildfire throughout the West.

The GAO recently stated that at these anemic spending levels we will continue to fall further and further behind. The GAO says that if we doubled the funding for fuel reduction, we would only stay even with the problem. Earlier this year when the agency testified before the Forests Subcommittee on which I serve, they

said we would need to triple the funding for fuel reduction if we wish to begin to address the build-up of dangerous trees and shrubs in our national forests.

If we tripled the overall funding, more than 60 percent of that money could be spent under the expedited environmental analysis and judicial review authorized by HFRA, instead of using budget gimmicks to only claim that we are fully funding that important law. But the administration thus far has used that authority on less than 10 percent of projects. And the vast majority of those projects are simply burning rangeland, which does virtually nothing to improve forest health and reduce wildfire risk. The bottom line is that we are not even beginning to address the fuel build-up problem on forested federal land and we won't start with this bill. We gave them the authority to get more done in an expedited way, now let's give them the money necessary to do it.

The administration plans to treat only about 1 percent of the acres that they claim are in need of fuel reduction. The money in the amendment offered by Mr. BEAUPREZ would be small compared to the need, but every additional dollar helps. This amendment would allow them to do 60,000 more acres of fuel reduction next year. And not of only burning sagebrush, but actually treating 60,000 more acres of forested lands which are overstocked tinder boxes that could result in catastrophic fires and threaten our communities.

Congress needs to get serious about funding hazardous fuel reduction projects and fullfil the commitment made when it passed HFRA. This amendment would be a small but important step toward that goal and I urge its adoption.

The Acting CHAIRMAN (Mr. WALDEN of Oregon). All time has expired.

The question is on the amendment offered by the gentleman from Colorado (Mr. BEAUPREZ).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. DICKS. 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 Colorado (Mr. BEAUPREZ) will be postponed.

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 offered by the gentleman from Colorado (Mr. HEFLEY); amendments offered by the gentleman from Pennsylvania (Mr. PETERSON); amendment offered by the gentleman from Nebraska (Mr. TERRY); amendment offered by the gentleman from Wisconsin (Mr. OBEY); and amendment offered by the gentleman from Colorado (Mr. BEAUPREZ).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. HEFLEY

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendments.

The Clerk designated the amendments.

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 109, noes 311, not voting 13, as follows:

[Roll No. 191]

AYES—109

Akin
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Berkley
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Brady (TX)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Cannon
Chabot
Cox
Cubin
Culberson
Davis, Jo Ann
Deal (GA)
DeLay
Doolittle
Emerson
Everett
Feeney
Flake
Forbes
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gingrey
Gohmert
Goode
Goodlatte
Graves
Green (WI)
Gutknecht
Hall
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hoekstra
Hostettler
Hulshof
Hunter
Issa
Istook
Jenkins
Johnson, Sam
Jones (NC)
King (IA)
Kline
Kuhl (NY)
Lewis (KY)
Linder
Lungren, Daniel E.
Mack
Manzullo
Marchant
McHenry
McMorris
Mica
Miller (FL)
Miller, Gary
Musgrave
Myrick
Neugebauer
Norwood
Nunes
Otter
Paul
Pence
Peterson (MN)
Petri
Pitts
Poe
Pombo
Pomeroy
Putnam
Radanovich
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Salazar
Sensenbrenner
Sessions
Shadegg
Shuster
Skelton
Stearns
Sullivan
Tanner
Taylor (MS)
Thornberry
Tiahrt
Weldon (FL)
Weller
Wilson (NM)
Wilson (SC)
Young (AK)

NOES—311

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Barrow
Bass
Bean
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bonilla
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Butterfield
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Foley
Ford
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gillmor
Gonzalez
Gordon
Granger
Green, Al
Green, Gene
Grijalva
Gutierrez
Harris
Hart
Hastings (FL)
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Holden
Holt
Honda
Hooley
Hoyer
Hyde
Inglis (SC)
Inslee
Israel
Jackson (IL)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Latham
Lee
Levin
Lewis (CA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (PA)
Pickering
Platts
Porter
Price (GA)
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherman
Sherwood
Shimkus
Simmons
Simpson
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stupak
Sweeney
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Westmoreland
Wexler
Whitfield
Wicker
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—13

Conaway
Harman
Jackson-Lee (TX)
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Millender-McDonald
Shays
Strickland
Tancredo
Weldon (PA)

□ 1701

Mr. SCHWARZ of Michigan, Mr. RENZI, Ms. KILPATRICK of Michigan, Ms. LORETTA SANCHEZ of California, and Messrs. CARTER, SMITH of Texas and RUPPERSBERGER changed their vote from ''aye'' to ''no.''

Messrs. PETERSON of Minnesota, GINGREY, SULLIVAN, YOUNG of Alaska, Miss McMORRIS, and Mr. KUHL of New York changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. PETERSON OF PENNSYLVANIA

The Acting CHAIRMAN (Mr. BASS). The pending business is the demand for a recorded vote on the amendments offered by the gentleman from Pennsylvania (Mr. PETERSON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendments.

The Clerk designated the amendments.

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 157, noes 262, not voting 14, as follows:

[Roll No. 192]

AYES—157

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barton (TX)
Beauprez
Berry
Bishop (UT)
Blackburn
Boehner
Bonilla
Bonner
Boozman
Boren
Boustany
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Buyer
Cannon
Carter
Chocola
Coble
Cole (OK)
Cooper
Cramer
Cubin
Cuellar
Culberson
Davis (TN)
Deal (GA)
Dent
Doolittle
Doyle
Duncan
Edwards
Emerson
English (PA)
Everett
Flake
Fortenberry
Foxx
Franks (AZ)
Garrett (NJ)
Gibbons
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Granger
Graves
Green, Al
Green, Gene
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Istook
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
King (IA)
King (NY)
Kline
Kolbe
Kuhl (NY)
Lewis (KY)
Linder
Lungren, Daniel E.
Manzullo
Marchant
Marshall
McCaul (TX)
McCrery
McHenry
McHugh
McMorris
Melancon
Mica
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Porter
Price (GA)
Regula
Renzi
Reyes
Rogers (KY)
Rohrabacher
Ross
Ryun (KS)
Sabo
Salazar
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Smith (TX)
Sodrel
Souder
Sullivan
Tanner
Taylor (MS)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Upton
Weller
Westmoreland
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)

NOES—262

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bartlett (MD)
Bass
Bean
Becerra
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Blunt
Boehlert
Bono
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chabot
Chandler
Clay
Cleaver
Clyburn
Conyers
Costa
Costello
Cox
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Drake
Dreier
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Gallegly
Gerlach
Gilchrest
Gillmor
Gordon
Green (WI)
Grijalva
Harris
Hastings (FL)
Herseth
Higgins
Hinchey
Hobson
Holt
Honda
Hooley
Hoyer
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kingston
Kirk
Knollenberg
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Latham
Lee
Levin
Lewis (CA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Mack
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McCotter
McDermott
McGovern
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Nussle
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Petri
Platts
Poe
Pombo
Pomeroy
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Rehberg
Reichert
Reynolds
Rogers (AL)
Rogers (MI)
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stupak
Sweeney
Tauscher
Taylor (NC)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Wexler
Whitfield
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—14

Conaway
Gutierrez
Harman
Jackson-Lee (TX)
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Millender-McDonald
Shays
Strickland
Tancredo
Weldon (PA)

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (Mr. BASS) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1709

So the amendments were rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. CONAWAY. Mr. Chairman, on rollcall Nos. 191 and 192, I am not recorded because I was unavoidably detained. Had I been present, I would have voted "aye."

AMENDMENT NO. 4 OFFERED BY MR. TERRY

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 4 offered by the gentleman from Nebraska (Mr. TERRY) on which further proceedings were postponed and on which the noes 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 76, noes 344, not voting 13, as follows:

[Roll No. 193]

AYES—76

Akin
Barrow
Bean
Bishop (UT)
Boehner
Boren
Bradley (NH)
Brady (PA)
Camp
Cannon
Capuano
Chocola
Costello
Cubin
Deal (GA)
DeFazio
Dingell
Doggett
Doyle
Fattah
Fitzpatrick (PA)
Flake
Fortenberry
Frank (MA)
Gerlach
Green, Gene
Gutierrez
Hall
Hayworth
Hensarling
Hinchey
Holden
Hostettler
Jenkins
Jindal
Johnson, Sam
Kanjorski
Kelly
Kennedy (MN)
King (IA)
LoBiondo
Maloney
Markey
Matsui
McKinney
Menendez
Miller (FL)
Miller, Gary
Moore (WI)
Moran (KS)
Murphy
Musgrave
Nadler
Norwood
Osborne
Pallone
Pascrell
Pearce
Pence
Pitts
Poe
Ramstad
Ruppersberger
Ryan (WI)
Salazar
Saxton
Schwartz (PA)
Shimkus
Shuster
Smith (WA)
Stupak
Taylor (MS)
Terry
Weller
Wu
Wynn

NOES—344

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boustany
Boyd
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Cox
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)

Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Grijalva
Gutknecht
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kaptur
Keller
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lofgren, Zoe
Lowey
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moran (VA)
Murtha
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Oxley
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Sullivan
Sweeney
Tanner
Tauscher
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Young (AK)
Young (FL)

NOT VOTING—13

Harman
Jackson-Lee (TX)
Kolbe
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Millender-McDonald
Peterson (PA)
Shays
Strickland
Tancredo

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (Mr. FOLEY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1716

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. OBEY

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin (Mr. OBEY) on which further proceedings were postponed and on which the noes 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 186, noes 235, not voting 12, as follows:

[Roll No. 194]

AYES—186

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
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
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lipinski
Lofgren, Zoe
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Neal (MA)
Oberstar
Obey
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
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

NOES—235

Aderholt
Akin
Alexander
Bachus
Baird
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 (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
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
Doyle
Drake
Dreier
Duncan
Edwards
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
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Olver
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Stupak
Sweeney
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—12

Harman
Jackson-Lee (TX)
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Millender-McDonald
Shays
Strickland
Sullivan
Tancredo

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1726

Mr. EDWARDS, Mr. SCOTT of Georgia, and Mrs. JONES of Ohio changed their vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 6 OFFERED BY MR. BEAUPREZ

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. BEAUPREZ) 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 122, noes 298, not voting 13, as follows:

[Roll No. 195]

AYES—122

Akin
Bachus
Barrett (SC)
Bartlett (MD)
Beauprez
Blackburn
Boehner
Bonilla
Boren
Boustany
Brady (TX)
Burgess
Burton (IN)
Buyer
Calvert
Cannon
Cantor
Carter
Chabot
Coble
Cole (OK)
Cox
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal (GA)
DeFazio
DeLay
Diaz-Balart, M.
Doolittle
Dreier
Emerson
Feeney
Flake
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gingrey
Gohmert
Goode
Goodlatte
Graves
Green (WI)
Gutknecht
Hall
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hoekstra
Hostettler
Hunter
Issa
Istook
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
Kingston
Kline
Kuhl (NY)
Latham
Lewis (CA)
Lewis (KY)
Linder
Lungren, Daniel E.
Manzullo
Marchant
McCaul (TX)
McHenry
McMorris
Miller (FL)
Miller, Gary
Musgrave
Myrick
Neugebauer
Ney
Norwood
Nunes
Nussle
Otter
Paul
Pence
Petri
Pickering
Pitts
Poe
Pombo
Porter
Renzi
Rogers (AL)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Salazar
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Souder
Stearns
Sullivan
Taylor (MS)
Thornberry
Tiahrt
Udall (CO)
Weldon (FL)
Weller
Westmoreland
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)

NOES—298

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Barrow
Barton (TX)
Bass
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Blunt
Boehlert
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chandler
Chocola
Clay
Cleaver
Clyburn
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Tom
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doyle
Drake
Duncan
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gillmor
Gonzalez
Gordon
Granger
Green, Al
Green, Gene
Grijalva
Gutierrez
Harris
Hart
Hastings (FL)
Higgins
Hinchey
Hinojosa
Hobson
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hyde
Inglis (SC)
Inslee
Israel
Jackson (IL)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kirk
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Mack
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Northup
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Platts
Pomeroy
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Reyes
Reynolds
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherman
Sherwood
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Spratt
Stark
Stupak
Sweeney
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Whitfield
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—13

Bishop (UT)
Butterfield
Harman
Jackson-Lee (TX)
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Millender-McDonald
Shays
Strickland
Tancredo

□ 1735

Mr. ROSS changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN (Mr. FOLEY). The Committee will rise informally.

The Speaker pro tempore (Mr. REHBERG) assumed the chair.

A FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The Committee resumed its sitting.

Mr. TAYLOR of North Carolina. Mr. Chairman, I move to strike the last word for the purposes of engaging in a colloquy with the gentleman from Oklahoma (Mr. COLE).

Mr. Chairman, I yield to the gentleman from Oklahoma (Mr. COLE).

Mr. COLE of Oklahoma. Mr. Chairman, at the outset let me thank the gentleman from North Carolina (Mr. TAYLOR) for bringing forward a bill that I believe addresses many of the critical issues for the Department of the Interior.

It is impossible not to note that this budget environment creates genuinely tough challenges for the Department of the Interior. With that said, I believe the subcommittee has done an excellent job in crafting a bill that addresses those major problems.

Several years ago this committee provided funds for a new visitors center at Chickasaw National Recreation Area in my district. The bids came in high due to the rising cost of materials. Before the project could be downsized the Department of the Interior had to reprogram these funds for emergency wildfire suppression.

Mr. Chairman, I am asking that you consider restoring this project in conference should funds become available.

Mr. TAYLOR of North Carolina. Mr. Chairman, reclaiming my time, I understand the gentleman's concerns and the unfortunate turn of events which caused this project to be delayed, and I will give the request of the gentleman from Oklahoma (Mr. COLE) every possible consideration.

Mr. Chairman, I yield to the gentleman from Oklahoma (Mr. COLE).

Mr. COLE of Oklahoma. Mr. Chairman, I want to thank the gentleman from North Carolina (Mr. TAYLOR), our distinguished chairman, for offering to work with me and the committee to resolve this through the conference process.

I believe that this is an important and critical step toward addressing what has been a very real injustice. I thank the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Chairman, I ask unanimous consent that the bill through page 128 line 12 be

considered as read, printed in the RECORD, and open to amendment at any point.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The text of the bill from page 79 line 7, through page 128 line 12 is as follows:

CAPITAL IMPROVEMENT AND MAINTENANCE

For necessary expenses of the Forest Service, not otherwise provided for, $468,260,000, to remain available until expended for construction, reconstruction, maintenance and acquisition of buildings and other facilities, and for construction, reconstruction, repair, decommissioning, and maintenance of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205: *Provided*, That up to $15,000,000 of the funds provided herein for road maintenance shall be available for the decommissioning of roads, including unauthorized roads not part of the transportation system, which are no longer needed: *Provided further*, That no funds shall be expended to decommission any system road until notice and an opportunity for public comment has been provided on each decommissioning project.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $15,000,000, to be derived from the Land and Water Conservation Fund and to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,069,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, such sums, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities, and for authorized expenditures from funds deposited by non-Federal parties pursuant to Land Sale and Exchange Acts, pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 percent of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the 16 Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $64,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

MANAGEMENT OF NATIONAL FOREST LANDS FOR SUBSISTENCE USES

For necessary expenses of the Forest Service to manage Federal lands inAlaska for subsistence uses under title VIII of the Alaska National Interest Lands Conservation Act (Public Law 96–487), $5,467,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (1) purchase of passenger motor vehicles; acquisition of passenger motor vehicles from excess sources, and hire of such vehicles; purchase, lease, operation, maintenance, and acquisition of aircraft from excess sources to maintain the operable fleet for use in Forest Service wildland fire programs and other Forest Service programs; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (2) services pursuant to 7 U.S.C. 2225, and not to exceed $100,000 for employment under 5 U.S.C. 3109; (3) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (4) acquisition of land, waters, and interests therein pursuant to 7 U.S.C. 428a; (5) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, and 558a note); (6) the cost of uniforms as authorized by 5 U.S.C. 5901–5902; and (7) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to abolish any region, to move or close any regional office for National Forest System administration of the Forest Service, Department of Agriculture without the consent of the House and Senate Committees on Appropriations.

Any appropriations or funds available to the Forest Service may be transferred to the Wildland Fire Management appropriation for forest firefighting, emergency rehabilitation of burned-over or damaged lands or waters under its jurisdiction, and fire preparedness due to severe burning conditions upon notification of the House and Senate Committees on Appropriations and if and only if all previously appropriated emergency contingent funds under the heading ''Wildland Fire Management'' have been released by the President and apportioned and all wildfire suppression funds under the heading ''Wildland Fire Management'' are obligated.

The first transfer of funds into the Wildland Fire Management account shall include unobligated funds, if available, from the Land Acquisition account and the Forest Legacy program within the State and Private Forestry account.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b, however in fiscal year 2006 the Forest Service may transfer funds to the ''National Forest System'' account from other agency accounts to enable the agency's law enforcement program to pay full operating costs including overhead.

None of the funds available to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the reprogramming procedures contained in the report accompanying this Act.

Not more than $72,646,000 of the funds available to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture.

Funds available to the Forest Service shall be available to conduct a program of not less than $2,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps.

Of the funds available to the Forest Service, $4,000 is available to the Chief of the Forest Service for official reception and representation expenses.

Pursuant to sections 405(b) and 410(b) of Public Law 101–593, of the funds available to the Forest Service, $3,000,000 may be advanced in a lump sum to the National Forest Foundation to aid conservation partnership projects in support of the Forest Service mission, without regard to when the Foundation incurs expenses, for administrative expenses or projects on or benefitting National Forest System lands or related to Forest Service programs: *Provided*, That of the Federal funds made available to the Foundation, no more than $250,000 shall be available for administrative expenses: *Provided further*, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds made available by the Forest Service: *Provided further*, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds: *Provided further*, That authorized investments of Federal funds held by the Foundation may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Pursuant to section 2(b)(2) of Public Law 98–244, $2,650,000 of the funds available to the Forest Service shall be advanced to the National Fish and Wildlife Foundation in a lump sum to aid cost-share conservation projects, without regard to when expenses are incurred, on or benefitting National Forest System lands or related to Forest Service programs: *Provided*, That such funds shall be matched on at least a one-for-one basis by the Foundation or its subrecipients.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Any appropriations or funds available to the Forest Service may be used for necessary expenses in the event of law enforcement emergencies as necessary to protect natural resources and public or employee safety: *Provided*, That such amounts shall not exceed $500,000.

An eligible individual who is employed in any project funded under title V of the Older American Act of 1965 (42 U.S.C. 3056 et seq.) and administered by the Forest Service shall be considered to be a Federal employee for purposes of chapter 171 of title 28, United States Code.

Any funds appropriated to the Forest Service may be used to meet the non-Federal share requirement in section 502(c) of the Older American Act of 1965 (42 U.S.C. 3056(c)(2)).

For each fiscal year through 2009, funds available to the Forest Service in this Act may be used for the purpose of expenses associated with primary and secondary schooling for dependents of agency personnel stationed in Puerto Rico prior to the date of enactment of this Act, who are subject to transfer

and reassignment to other locations in the United States, at a cost not in excess of those authorized for the Department of Defense for the same area, when it is determined by the Chief of the Forest Service that public schools available in the locality are unable to provide adequately for the education of such dependents.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, $2,732,298,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 238(b) for services furnished by the Indian Health Service: *Provided*, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That up to $18,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further*, That $507,021,000 for contract medical care shall remain available for obligation until September 30, 2007: *Provided further*, That of the funds provided, up to $27,000,000, to remain available until expended, shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available until expended: *Provided further*, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended: *Provided further*, That, notwithstanding any other provision of law, of the amounts provided herein, not to exceed $268,683,000 shall be for payments to tribes and tribal organizations for contract or grant support costs associated with contracts, grants, self-governance compacts or annual funding agreements between the Indian Health Service and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to or during fiscal year 2006, of which not to exceed $5,000,000 may be used for contract support costs associated with new or expanded self-determination contracts, grants, self-governance compacts or annual funding agreements: *Provided further*, That funds available for the Indian Health Care Improvement Fund may be used, as needed, to carry out activities typically funded under the Indian Health Facilities account: *Provided further*, That of the amounts provided to the Indian Health Service, $15,000,000 is provided for alcohol control, enforcement, prevention, treatment, sobriety and wellness, and education in Alaska: *Provided further*, That none of the funds may be used for tribal courts or tribal ordinance programs or any program that is not directly related to alcohol control, enforcement, prevention, treatment, or sobriety: *Provided further*, That no more than 15 percent may be used by any entity receiving funding for administrative overhead including indirect costs: *Provided further*, That the Bureau of Indian Affairs shall collect from the Indian Health Service and tribes and tribal organizations operating health facilities pursuant to Public Law 93–638 such individually identifiable health information relating to disabled children as may be necessary for the purpose of carrying out its functions under the Individuals With Disability Education Act, 20 U.S.C. 1400, et seq.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act, and the Indian Health Care Improvement Act, and for expenses necessary to carry out such Acts and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $370,774,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities: *Provided further*, That not to exceed $500,000 shall be used by the Indian Health Service to purchase TRANSAM equipment from the Department of Defense for distribution to the Indian Health Service and tribal facilities: *Provided further*, That none of the funds appropriated to the Indian Health Service may be used for sanitation facilities construction for new homes funded with grants by the housing programs of the United States Department of Housing and Urban Development: *Provided further*, That not to exceed $1,000,000 from this account and the ''Indian Health Services'' account shall be used by the Indian Health Service to obtain ambulances for the Indian Health Service and tribal facilities in conjunction with an existing interagency agreement between the Indian Health Service and the General Services Administration: *Provided further*, That notwithstanding any other provision of law, funds appropriated for the planning, design, and construction of the replacement health care facility in Barrow, Alaska, may be used to purchase land up to approximately 8 hectares for a site upon which to construct the new health care facility: *Provided further*, That not to exceed $500,000 shall be placed in a Demolition Fund, available until expended, to be used by the Indian Health Service for demolition of Federal buildings.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefor as authorized by 5 U.S.C. 5901–5902; and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

In accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation. Notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 93–638, as amended.

Funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation.

None of the funds made available to the Indian Health Service in this Act shall be used for any assessments or charges by the Department of Health and Human Services unless identified in the budget justification and provided in this Act, or approved by the House and Senate Committees on Appropriations through the reprogramming process. Personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full time equivalent level of the Indian Health Service below the level in fiscal year 2002 adjusted upward for the staffing of new and expanded facilities, funding provided for staffing at the Lawton, Oklahoma hospital in fiscal years 2003 and 2004, critical positions not filled in fiscal year 2002, and staffing necessary to carry out the intent of Congress with regard to program increases.

Notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant, or agreement authorized by title I or title V of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), may be deobligated and reobligated to a self-determination contract under title I, or a self-governance agreement under title V of such Act and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation.

None of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law.

With respect to functions transferred by the Indian Health Service to tribes or tribal

organizations, the Indian Health Service is authorized to provide goods and services to those entities, on a reimbursable basis, including payment in advance with subsequent adjustment. The reimbursements received therefrom, along with the funds received from those entities pursuant to the Indian Self-Determination Act, may be credited to the same or subsequent appropriation account which provided the funding. Such amounts shall remain available until expended.

Reimbursements for training, technical assistance, or services provided by the Indian Health Service will contain total costs, including direct, administrative, and overhead associated with the provision of goods, services, or technical assistance.

The appropriation structure for the Indian Health Service may not be altered without advance notification to the House and Senate Committees on Appropriations.

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For necessary expenses for the National Institute of Environmental Health Sciences in carrying out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and section 126(g) of the Superfund Amendments and Reauthorization Act of 1986, $80,289,000.

AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY

TOXIC SUBSTANCES AND ENVIRONMENTAL PUBLIC HEALTH

For necessary expenses for the Agency for Toxic Substances and Disease Registry (ATSDR) in carrying out activities set forth in sections 104(i), 111(c)(4), and 111(c)(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; section 118(f) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended; and section 3019 of the Solid Waste Disposal Act, as amended, $76,024,000, of which up to $1,500,000, to remain available until expended, is for Individual Learning Accounts for full-time equivalent employees of the Agency for Toxic Substances and Disease Registry: *Provided,* That notwithstanding any other provision of law, in lieu of performing a health assessment under section 104(i)(6) of CERCLA, the Administrator of ATSDR may conduct other appropriate health studies, evaluations, or activities, including, without limitation, biomedical testing, clinical evaluations, medical monitoring, and referral to accredited health care providers: *Provided further,* That in performing any such health assessment or health study, evaluation, or activity, the Administrator of ATSDR shall not be bound by the deadlines in section 104(i)(6)(A) of CERCLA: *Provided further,* That none of the funds appropriated under this heading shall be available for ATSDR to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 2006, and existing profiles may be updated as necessary.

OTHER RELATED AGENCIES

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, and not to exceed $750 for official reception and representation expenses, $2,717,000: *Provided,* That notwithstanding section 202 of the National Environmental Policy Act of 1970, the Council shall consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as chairman and exercising all powers, functions, and duties of the Council.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, as amended, including hire of passenger vehicles, uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902, and for services authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376, $9,200,000: *Provided,* That the Chemical Safety and Hazard Investigation Board (Board) shall have not more than three career Senior Executive Service positions: *Provided further,* That notwithstanding any other provision of law, the individual appointed to the position of Inspector General of the Environmental Protection Agency (EPA) shall, by virtue of such appointment, also hold the position of Inspector General of the Board: *Provided further,* That notwithstanding any other provision of law, the Inspector General of the Board shall utilize personnel of the Office of Inspector General of EPA in performing the duties of the Inspector General of the Board, and shall not appoint any individuals to positions within the Board.

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, $8,601,000, to remain available until expended: *Provided,* That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further,* That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further,* That no relocatee will be provided with more than one new or replacement home: *Provided further,* That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–498, as amended (20 U.S.C. 56 part A), $6,300,000.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed 30 years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to five replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees, $524,381,000, of which not to exceed $10,992,000 for the instrumentation program, collections acquisition, exhibition reinstallation, the National Museum of African American History and Culture, and the repatriation of skeletal remains program shall remain available until expended; and of which $9,086,000 for the reopening of the Patent Office Building and for fellowships and scholarly awards shall remain available until September 30, 2007; and including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided,* That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: *Provided further,* That the Smithsonian Institution may expend Federal appropriations designated in this Act for lease or rent payments for long term and swing space, as rent payable to the Smithsonian Institution, and such rent payments may be deposited into the general trust funds of the Institution to the extent that federally supported activities are housed in the 900 H Street, N.W. building in the District of Columbia: *Provided further,* That this use of Federal appropriations shall not be construed as debt service, a Federal guarantee of, a transfer of risk to, or an obligation of, the Federal Government: *Provided further,* That no appropriated funds may be used to service debt which is incurred to finance the costs of acquiring the 900 H Street building or of planning, designing, and constructing improvements to such building.

FACILITIES CAPITAL

For necessary expenses of repair, revitalization, and alteration of facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), and for construction, including necessary personnel, $90,900,000, to remain available until expended, of which not to exceed $10,000 is for services as authorized by 5 U.S.C. 3109: *Provided,* That contracts awarded for environmental systems, protection systems, and repair or restoration of facilities of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

ADMINISTRATIVE PROVISIONS, SMITHSONIAN INSTITUTION

None of the funds in this or any other Act may be used to make any changes to the existing Smithsonian science programs including closure of facilities, relocation of staff or redirection of functions and programs without the advance approval of the House and Senate Committees on Appropriations.

None of the funds in this or any other Act may be used to initiate the design for any proposed expansion of current space or new facility without consultation with the House and Senate Appropriations Committees.

None of the funds in this or any other Act may be used for the Holt House located at the National Zoological Park in Washington, D.C., unless identified as repairs to minimize water damage, monitor structure movement, or provide interim structural support.

None of the funds available to the Smithsonian may be reprogrammed without the

advance written approval of the House and Senate Committees on Appropriations in accordance with the reprogramming procedures contained in the statement of the managers accompanying this Act.

None of the funds in this or any other Act may be used to purchase any additional buildings without prior consultation with the House and Senate Committees on Appropriations.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $97,100,000, of which not to exceed $3,157,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $16,200,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: *Provided further,* That, notwithstanding any other provision of law, a single procurement for the Master Facilities Plan renovation project at the National Gallery of Art may be issued which includes the full scope of the Work Area #3 project: *Provided further,* That the solicitation and the contract shall contain the clause ''availability of funds'' found at 48 CFR 52.232.18.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $17,800,000.

CONSTRUCTION

For necessary expenses for capital repair and restoration of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $10,000,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $9,085,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $121,264,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to organizations and individuals pursuant to sections 5(c) and 5(g) of the Act, including $14,922,000 for support of arts education and public outreach activities through the Challenge America program, for program support, and for administering the functions of the Act, to remain available until expended: *Provided,* That funds previously appropriated to the National Endowment for the Arts ''Matching Grants'' account and ''Challenge America'' account may be transferred to and merged with this account.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $122,605,000, shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $15,449,000, to remain available until expended, of which $10,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided,* That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses: *Provided further,* That funds from nonappropriated sources may be used as necessary for official reception and representation expenses: *Provided further,* That the Chairperson of the National Endowment for the Arts may approve grants up to $10,000, if in the aggregate this amount does not exceed 5 percent of the sums appropriated for grant-making purposes per year: *Provided further,* That such small grant actions are taken pursuant to the terms of an expressed and direct delegation of authority from the National Council on the Arts to the Chairperson.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $1,893,000: *Provided,* That the Commission is authorized to charge fees to cover the full costs of its publications, and such fees shall be credited to this account as an offsetting collection, to remain available until expended without further appropriation.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (20 U.S.C. 956(a)), as amended, $7,000,000: *Provided,* That no one organization shall receive a grant in excess of $400,000 in a single year.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For necessary expenses of the Advisory Council on Historic Preservation (Public Law 89–665, as amended), $4,860,000: *Provided,* That none of these funds shall be available for compensation of level V of the Executive Schedule or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, $8,177,000: *Provided,* That one-quarter of 1 percent of the funds provided under this heading may be used for official reception and representational expenses to host international visitors engaged in the planning and physical development of world capitals.

UNITED STATES HOLOCAUST MEMORIAL MUSEUM

HOLOCAUST MEMORIAL MUSEAUM

For expenses of the Holocaust Memorial Museum, as authorized by Public Law 106–292 (36 U.S.C. 2301–2310), $41,880,000, of which $1,874,000 for the museum's repair and rehabilitation program and $1,246,000 for the museum's exhibitions program shall remain available until expended.

PRESIDIO TRUST

PRESIDIO TRUST FUND

For necessary expenses to carry out title I of the Omnibus Parks and Public Lands Management Act of 1996, $20,000,000 shall be available to the Presidio Trust, to remain available until expended.

WHITE HOUSE COMMISSION ON THE NATIONAL MOMENT OF REMEMBRANCE

For necessary expenses of the White House Commission on the National Moment of Remembrance, $250,000.

TITLE IV—GENERAL PROVISIONS

SEC. 401. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 402. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete.

SEC. 403. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 404. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 405. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 406. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (Sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 2004.

SEC. 407. (a) LIMITATION OF FUNDS.—None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994; and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) REPORT.—On September 30, 2006, the Secretary of the Interior shall file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on actions taken by the Department under the plan submitted pursuant to section 314(c) of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104–208).

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 408. Notwithstanding any other provision of law, amounts appropriated to or earmarked in committee reports for the Bureau of Indian Affairs and the Indian Health Service by Public Laws 103–138, 103–332, 104–134, 104–208, 105–83, 105–277, 106–113, 106–291, 107–63, 108–7, 108–108, and 108–447 for payments to tribes and tribal organizations for contract support costs associated with self-determination or self-governance contracts, grants, compacts, or annual funding agreements with the Bureau of Indian Affairs or the Indian Health Service as funded by such Acts, are the total amounts available for fiscal years 1994 through 2005 for such purposes, except that, for the Bureau of Indian Affairs, tribes and tribal organizations may use their tribal priority allocations for unmet contract support costs of ongoing contracts, grants, self-governance compacts or annual funding agreements.

SEC. 409. Of the funds provided to the National Endowment for the Arts:

(1) The Chairperson shall only award a grant to an individual if such grant is awarded to such individual for a literature fellowship, National Heritage Fellowship, or American Jazz Masters Fellowship.

(2) The Chairperson shall establish procedures to ensure that no funding provided through a grant, except a grant made to a State or local arts agency, or regional group, may be used to make a grant to any other organization or individual to conduct activity independent of the direct grant recipient. Nothing in this subsection shall prohibit payments made in exchange for goods and services.

(3) No grant shall be used for seasonal support to a group, unless the application is specific to the contents of the season, including identified programs and/or projects.

SEC. 410. The National Endowment for the Arts and the National Endowment for the Humanities are authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate endowment for the purposes specified in each case.

SEC. 411. (a) In providing services or awarding financial assistance under the National Foundation on the Arts and the Humanities Act of 1965 from funds appropriated under this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that serve underserved populations.

(b) In this section:

(1) The term ''underserved population'' means a population of individuals, including urban minorities, who have historically been outside the purview of arts and humanities programs due to factors such as a high incidence of income below the poverty line or to geographic isolation.

(2) The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(c) In providing services and awarding financial assistance under the National Foundation on the Arts and Humanities Act of 1965 with funds appropriated by this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that will encourage public knowledge, education, understanding, and appreciation of the arts.

(d) With funds appropriated by this Act to carry out section 5 of the National Foundation on the Arts and Humanities Act of 1965—

(1) the Chairperson shall establish a grant category for projects, productions, workshops, or programs that are of national impact or availability or are able to tour several States;

(2) the Chairperson shall not make grants exceeding 15 percent, in the aggregate, of such funds to any single State, excluding grants made under the authority of paragraph (1);

(3) the Chairperson shall report to the Congress annually and by State, on grants awarded by the Chairperson in each grant category under section 5 of such Act; and

(4) the Chairperson shall encourage the use of grants to improve and support community-based music performance and education.

SEC. 412. No part of any appropriation contained in this Act shall be expended or obligated to complete and issue the 5-year program under the Forest and Rangeland Renewable Resources Planning Act.

SEC. 413. None of the funds in this Act may be used to support Government-wide administrative functions unless such functions are justified in the budget process and funding is approved by the House and Senate Committees on Appropriations.

SEC. 414. Amounts deposited during fiscal year 2005 in the roads and trails fund provided for in the 14th paragraph under the heading ''FOREST SERVICE'' of the Act of March 4, 1913 (37 Stat. 843; 16 U.S.C. 501), shall be used by the Secretary of Agriculture, without regard to the State in which the amounts were derived, to repair or reconstruct roads, bridges, and trails on National Forest System lands or to carry out and administer projects to improve forest health conditions, which may include the repair or reconstruction of roads, bridges, and trails on National Forest System lands in the wildland-community interface where there is an abnormally high risk of fire. The projects shall emphasize reducing risks to human safety and public health and property and enhancing ecological functions, long-term forest productivity, and biological integrity. The projects may be completed in a subsequent fiscal year. Funds shall not be expended under this section to replace funds which would otherwise appropriately be expended from the timber salvage sale fund. Nothing in this section shall be construed to exempt any project from any environmental law.

SEC. 415. Other than in emergency situations, none of the funds in this Act may be used to operate telephone answering machines during core business hours unless such answering machines include an option that enables callers to reach promptly an individual on-duty with the agency being contacted.

SEC. 416. Prior to October 1, 2006, the Secretary of Agriculture shall not be considered to be in violation of subparagraph 6(f)(5)(A) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)(A)) solely because more than 15 years have passed without revision of the plan for a unit of the National Forest System. Nothing in this section exempts the Secretary from any other requirement of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1600 et seq.) or any other law: *Provided*, That if the Secretary is not acting expeditiously and in good faith, within the funding available, to revise a plan for a unit of the National Forest System, this section shall be void with respect to such plan and a court of proper jurisdiction may order completion of the plan on an accelerated basis.

SEC. 417. No funds provided in this Act may be expended to conduct preleasing, leasing and related activities under either the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) within the boundaries of a National Monument established pursuant to the Act of June 8, 1906 (16 U.S.C. 431 et seq.) as such boundary existed on January 20, 2001, except where such activities are allowed under the Presidential proclamation establishing such monument.

SEC. 418. EXTENSION OF FOREST SERVICE CONVEYANCES PILOT PROGRAM.—Section 329 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (16

U.S.C. 580d note; Public Law 107–63) is amended—

(1) in subsection (b), by striking ''40'' and inserting ''60'';

(2) in subsection (c) by striking ''13'' and inserting ''25''; and

(3) in subsection (d), by striking ''2008'' and inserting ''2009''.

SEC. 419. In entering into agreements with foreign countries pursuant to the Wildfire Suppression Assistance Act (42 U.S.C. 1856m) the Secretary of Agriculture and the Secretary of the Interior are authorized to enter into reciprocal agreements in which the individuals furnished under said agreements to provide wildfire services are considered, for purposes of tort liability, employees of the country receiving said services when the individuals are engaged in fire suppression: *Provided*, That the Secretary of Agriculture or the Secretary of the Interior shall not enter into any agreement under this provision unless the foreign country (either directly or through its fire organization) agrees to assume any and all liability for the acts or omissions of American firefighters engaged in firefighting in a foreign country: *Provided further*, That when an agreement is reached for furnishing fire fighting services, the only remedies for acts or omissions committed while fighting fires shall be those provided under the laws of the host country, and those remedies shall be the exclusive remedies for any claim arising out of fighting fires in a foreign country: *Provided further*, That neither the sending country nor any legal organization associated with the firefighter shall be subject to any legal action whatsoever pertaining to or arising out of the firefighter's role in fire suppression.

SEC. 420. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 421. In awarding a Federal contract with funds made available by this Act, notwithstanding Federal government procurement and contracting laws, the Secretary of Agriculture and the Secretary of the Interior (the ''Secretaries'') may, in evaluating bids and proposals, give consideration to local contractors who are from, and who provide employment and training for, dislocated and displaced workers in an economically disadvantaged rural community, including those historically timber-dependent areas that have been affected by reduced timber harvesting on Federal lands and other forest-dependent rural communities isolated from significant alternative employment opportunities: *Provided*, That notwithstanding Federal Government procurement and contracting laws the Secretaries may award contracts, grants or cooperative agreements to local non-profit entities, Youth Conservation Corps or related partnerships with State, local or non-profit youth groups, or small or disadvantaged business or micro-business: *Provided further*, That the contract, grant, or cooperative agreement is for forest hazardous fuels reduction, watershed or water quality monitoring or restoration, wildlife or fish population monitoring, or habitat restoration or management: *Provided further*, That the terms ''rural community'' and ''economically disadvantaged'' shall have the same meanings as in section 2374 of Public Law 101–624: *Provided further*, That the Secretaries shall develop guidance to implement this section: *Provided further*, That nothing in this section shall be construed as relieving the Secretaries of any duty under applicable procurement laws, except as provided in this section.

SEC. 422. No funds appropriated in this Act for the acquisition of lands or interests in lands may be expended for the filing of declarations of taking or complaints in condemnation without the approval of the House and Senate Committees on Appropriations: *Provided*, That this provision shall not apply to funds appropriated to implement the Everglades National Park Protection and Expansion Act of 1989, or to funds appropriated for Federal assistance to the State of Florida to acquire lands for Everglades restoration purposes.

SEC. 423. (a) LIMITATION ON COMPETITIVE SOURCING STUDIES.—

(1) Of the funds made available by this or any other Act to the Department of the Interior for fiscal year 2006, not more than $3,450,000 may be used by the Secretary of the Interior to initiate or continue competitive sourcing studies in fiscal year 2006 for programs, projects, and activities for which funds are appropriated by this Act and such funds shall not be available until the Secretary submits a reprogramming proposal to the Committees on Appropriations of the Senate and the House of Representatives, and such proposal has been processed consistent with the reprogramming guidelines in House Report 108–330.

(2) Of the funds appropriated by this Act, not more than $2,500,000 may be used in fiscal year 2006 for competitive sourcing studies and related activities by the Forest Service.

(b) COMPETITIVE SOURCING STUDY DEFINED.—In this section, the term ''competitive sourcing study'' means a study on subjecting work performed by Federal Government employees or private contractors to public-private competition or on converting the Federal Government employees or the work performed by such employees to private contractor performance under the Office of Management and Budget Circular A–76 or any other administrative regulation, directive, or policy.

(c) COMPETITIVE SOURCING EXEMPTION FOR FOREST SERVICE STUDIES CONDUCTED PRIOR TO FISCAL YEAR 2006.—Notwithstanding requirements of Office of Management and Budget Circular A–76, Attachment B, the Forest Service is hereby exempted from implementing the Letter of Obligation and post-competition accountability guidelines where a competitive sourcing study involved 65 or fewer full-time equivalents, the performance decision was made in favor of the agency provider; no net savings was achieved by conducting the study, and the study was completed prior to the date of this Act.

(d) In preparing any reports to the Committees on Appropriations on competitive sourcing activities, agencies funded in this Act shall include the incremental cost directly attributable to conducting the competitive sourcing competitions, including costs attributable to paying outside consultants and contractors and, in accordance with full cost accounting principles, all costs attributable to developing, implementing, supporting, managing, monitoring, and reporting on competitive sourcing, including personnel, consultant, travel, and training costs associated with program management.

SEC. 424. Estimated overhead charges, deductions, reserves or holdbacks from programs, projects and activities to support governmentwide, departmental, agency or bureau administrative functions or headquarters, regional or central office operations shall be presented in annual budget justifications. Changes to such estimates shall be presented to the Committees on Appropriations for approval.

SEC. 425. None of the funds in this Act or prior Acts making appropriations for the Department of the Interior and Related Agencies may be provided to the managing partners or their agents for the SAFECOM or Disaster Management projects.

SEC. 426. (a) IN GENERAL.—An entity that enters into a contract with the United States to operate the National Recreation Reservation Service (as solicited by the solicitation numbered WO–04–06vm) shall not carry out any duties under the contract using:

(1) a contact center located outside the United States; or

(2) a reservation agent who does not live in the United States.

(b) NO WAIVER.—The Secretary of Agriculture may not waive the requirements of subsection (a).

(c) TELECOMMUTING.—A reservation agent who is carrying out duties under the contract described in subsection (a) may not telecommute from a location outside the United States.

(d) LIMITATIONS.—Nothing in this Act shall be construed to apply to any employee of the entity who is not a reservation agent carrying out the duties under the contract described in subsection (a) or who provides managerial or support services.

SEC. 427. Section 331, of Public Law 106–113, is amended—

(1) in part (a) by striking ''2005'' and inserting ''2009''; and

(2) in part (b) by striking ''2005'' and inserting ''2009''.

SEC. 428. Section 330 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (Public Law 106–291; 114 Stat. 996; 43 U.S.C. 1701 note), is amended—

(1) in the first sentence, by striking ''2005'' and inserting ''2008'';

(2) in the third sentence, by inserting '', National Park Service, Fish and Wildlife Service,'' after ''Bureau of Land Management''; and

(3) by adding at the end the following new sentence: ''To facilitate the sharing of resources under the Service First initiative, the Secretaries of the Interior and Agriculture may make transfers of funds and reimbursement of funds on an annual basis among the land management agencies referred to in this section, except that this authority may not be used to circumvent requirements and limitations imposed on the use of funds.''.

SEC. 429. The Secretary of Agriculture may acquire, by exchange or otherwise, a parcel of real property, including improvements thereon, of the Inland Valley Development Agency of San Bernardino, California, or its successors and assigns, generally comprising Building No. 3 and Building No. 4 of the former Defense Finance and Accounting Services complex located at the southwest corner of Tippecanoe Avenue and Mill Street in San Bernardino, California, adjacent to the former Norton Air Force Base. As full consideration for the property to be acquired, the Secretary of Agriculture may terminate the leasehold rights of the United States received pursuant to section 8121(a)(2) of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 999). The acquisition of the property shall be on such terms and conditions as the Secretary of Agriculture considers appropriate and may be carried out without appraisals, environmental or administrative surveys, consultations, analyses, or other considerations of the condition of the property.

SEC. 430. The Secretary of the Interior shall submit to the House Committee on Appropriations a report detailing the Federal expenditures pursuant to the Southern Nevada Public Lands Management Act (section 4(e)(3) of Public Law 105–263) for fiscal years 2003 and 2004.

SEC. 431. None of the funds in this Act may be used to prepare or issue a permit or lease for oil or gas drilling in the Finger Lakes National Forest, New York, during fiscal year 2006.

The Acting CHAIRMAN. Are there any points of order to pending provisions of the bill?

POINTS OF ORDER

Mr. TOM DAVIS of Virginia. Mr. Chairman, I raise a point of order against section 413 of H.R. 2361, on the grounds that this provision changes existing law in violation of clause 2(b) of House rule XXI, and therefore is legislation included in a general appropriation bill.

The Acting CHAIRMAN. Does anyone else wish to be heard on the point of order?

The Chair finds that this section prescribes a legislative condition on the availability of funds. The section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained, and the section is stricken from the bill.

Mr. TOM DAVIS of Virginia. I raise a point of order against the provision beginning with ''notwithstanding'' on page 121, line 11, through the comma on line 12, on the grounds that this provision changes existing law in violation of clause 2(b) of House rule XXI and therefore is legislation included in a general appropriation bill.

The Acting CHAIRMAN. Does anyone wish to be heard on this point of order?

If not, the Chair is prepared to rule.

The Chair finds that this provision explicitly supersedes existing law. The provision therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained, and the provision is stricken from the bill.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I have three other points of order. I will raise them individually.

I have a point of order against the provision beginning with ''notwithstanding'' on page 121, line 22, through the word ''laws'' on line 23, on the grounds that this provision also changes existing law in violation of clause 2(b) of House rule XXI.

The Acting CHAIRMAN. Does anyone wish to be heard? The Chair finds that this provision explicitly supersedes existing law. The provision, therefore, constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained, and the provision is stricken from the bill.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I raise a point of order against the provision beginning with the word ''notwithstanding'' on page 124, line 6 through line 7, on the grounds that this provision changes existing law in violation of clause 2(b) of House rule XXI.

The Acting CHAIRMAN. Does anyone wish to be heard on this point of order?

Hearing none, the Chair finds that this provision explicitly supersedes existing law. The provision therefore constitutes legislation in violation of clause 2, rule XXI.

The point of order is sustained, and the provision is stricken from the bill.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I raise a point of order against the provision on page 124, lines 15 through 25, on the grounds that this provision changes existing law in violation of clause 2(b) of House rule XXI, therefore it is legislation included in a general appropriation bill.

The Acting CHAIRMAN. Does any Member wish to be heard on this point of order?

Hearing none, the Chair finds that this provision includes language imparting direction to certain agencies. The provision, therefore, constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained, and the provision is stricken from the bill.

AMENDMENT OFFERED NO. 7 BY MR. CHABOT

Mr. CHABOT. 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. CHABOT:

At the end of the bill (before the short title), insert the following:

SEC. ____. (a) None of the funds made available in this Act may be used for the designing or construction of forest development roads in the Tongass National Forest for the purpose of harvesting timber by private entities or individuals.

(b) Subsection (a) shall not apply with respect to a forest development road for which construction is initiated before the date of the enactment of this Act.

Mr POMBO. Mr. Chairman, I reserve a point of order against the amendment under rule XXI, clause 2.

The Acting CHAIRMAN. The point of order is reserved.

Pursuant to the order of House of today, the gentleman from Ohio (Mr. CHABOT) and a Member opposed each will control 10 minutes.

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

Mr. CHABOT. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, established in 1907 by President Theodore Roosevelt, the Tongass is our Nation's largest forest, about the size of West Virginia. Located along Alaska's southeastern coast, it is often referred to as America's rain forest and is home to abundant wildlife, bald eagles, grizzly bears, wolves, and salmon, as well as old growth trees such as the giant Sitka spruce, western hemlock, and yellow cedar.

Mr. Chairman, each year the timber industry is subsidized by millions of tax dollars, taxpayer, hard working funding tax dollars for logging in the Tongass National Forest, approximately $850 million since 1982.

Each year more taxpayer subsidized logging roads are built to extract the timber, and each year the road maintenance backlog gets more expensive. It is about $100 million right now. There are already about 5,000 miles of roads in the Tongass.

That is enough road to drive from Washington, D.C. to Los Angeles and most of the way back. Even the Forest Service acknowledges that existing roads are, quote, sufficient to satisfy local demand for road, recreation, subsistence, and community connectivity needs, unquote.

Mr. Chairman, this is a simple, straightforward amendment. It would stop the Forest Service from constructing new logging roads at taxpayer expense. Let me repeat that, at taxpayer expense, in the Tongass.

□ 1745

It does not prevent the timber industry from building their own roads. It does no prohibit the forest service from constructing roads needed for forest management, community connectivity, or for recreation. I know there are some who would have my colleagues believe differently, but this amendment has nothing to do with the roadless rule. It has everything to do with good government and fiscal responsibility.

This amendment is not an attempt to take away jobs in Alaska. In fact, between 1998 and 2004, Tongass-related jobs fell from over 1,500 to less than 300. That means that taxpayers are subsidizing each existing timber job to the tune of about $163,000 per job, about four times the median U.S. household income. Despite massive taxpayer subsidies, Alaskan timber continues to decline.

That said, this amendment does not stop timber companies from continuing to log off the roads that the American taxpayers have already built for them. In fact, the Forest Service has a 10-year supply of timber remaining off current roads.

Between 1998 and 2004, half of Tongass timber contracts went unsold. This means taxpayers spend millions of dollars for the Forest Service to build roads and plan sales to access timber they often cannot even sell; and those they do sell, they do so at below-market rates. In fact, the Forest Service is offering to let logging companies cancel contracts already sold because the companies do not want the timber.

Mr. Chairman, I support logging in our national forests when it makes sense, when it is economically viable. I believe our forests should be actively managed so that they may be as healthy as possible; but while we need to be good stewards of our forests, we must also be good stewards of the American people's money.

It is time to restore some common sense and fiscal discipline to the Tongass timber program. I urge my colleagues to stand up for the American taxpayers and support this amendment.

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

POINT OF ORDER

Mr. POMBO. Mr. Chairman, I make a point of order against the amendment.

The amendment constitutes legislation on an appropriations bill. Under the amendment, the limit on funds does not apply to roads under construction on the date of enactment of this bill

Making this determination is far from simple. The Tongass National Forest is 16 million acres and access is basically limited to boat and plane. Compliance with this provision would require Forest Service personnel field visits to numerous locations where road contracts are in effect to determine if or when road construction has begun.

Therefore, determining the construction status of roads in the Tongass would take considerable effort on the part of the Forest Service. This new substantial duty makes this amendment legislative in nature.

I ask the Chair to sustain my point of order.

The Acting CHAIRMAN (Mr. FOLEY). Does any Member wish to be heard on the point of order?

The gentleman from New Jersey (Mr. ANDREWS) is recognized.

Mr. ANDREWS. Mr. Chairman, I would urge that the point of order be rejected on grounds that the language my friend cites explicates and explains a limitation. This is a limitation amendment, and the language in the amendment simply establishes the scope of the limitation.

The test is not whether the limitation is difficult to figure out. The test is whether it imposes a new obligation. This language does not, and I would urge rejection of the point of order.

Mr. CHABOT. Mr. Chairman, I would also like to be heard very briefly.

I acknowledge, I recognize, I would agree with everything that the gentleman from New Jersey just said. I also might bring to the attention the fact that this is essentially the same amendment that was offered and held in order in the last Congress.

The Acting CHAIRMAN. Does any other Member wish to speak on the point of order? The Chair will rule momentarily.

The gentleman from California (Mr. POMBO) makes a point of order that the amendment offered by the gentleman from Ohio (Mr. CHABOT) proposes to change existing law, in violation of clause 2(c) of rule XXI.

As recorded in Deschler's Precedents, volume 8, section 52, even though a limitation or exception therefrom might refrain from explicitly assigning new duties to officers of the government, if it implicitly requires them to make investigations, compile evidence, or make judgments or determinations not otherwise required of them by law, then it assumes the character of legislation and is subject to a point of order under clause 2(c) of rule XXI.

The proponent of a limitation carries the burden of establishing that any duties imposed by the provision either are merely ministerial or are already required by law.

The Chair finds that limitation proposed in the amendment offered by the gentleman from Ohio (Mr. CHABOT) does more than merely decline to fund a certain activity. Instead, it requires the officials concerned to discern or discover the dates on which various road-construction projects were commenced within the periods in which they were authorized to commence.

On these premises, the Chair concludes that the amendment offered by the gentleman from Ohio (Mr. CHABOT) proposes to change existing law.

Accordingly, the point of order is sustained, and the amendment is not in order.

Mr. ANDREWS. Mr. Chairman, I move to appeal the ruling of the Chair.

The Acting CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

Mr. ANDREWS. Mr. Chairman, I ask unanimous consent to withdraw my motion.

The Acting CHAIRMAN. Without objection, the appeal is withdrawn.

There was no objection.

AMENDMENT NO. 1 OFFERED BY MR. RAHALL

Mr. RAHALL. 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. 1 offered by Mr. RAHALL:

At the end of the bill (before the short title), insert the following new section:

SEC. _____. LIMITATION ON USE OF FUNDS FOR SALE OR SLAUGHTER OF FREE-ROAMING HORSES AND BURROS.

None of the funds made available by this Act may be used for the sale or slaughter of wild free-roaming horses and burros (as defined in Public Law 92–195).

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from West Virginia (Mr. RAHALL) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. RAHALL).

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

Mr. Chairman, I am offering this amendment on behalf of myself, the gentleman from Kentucky (Mr. WHITFIELD), the gentleman from New York (Mr. SWEENEY), and the gentleman from South Carolina (Mr. SPRATT).

Mr. Chairman, America is blessed with a rich natural heritage. Part of that heritage are the herds of wild horses, direct descendants of animals that came here with early explorers and missionaries, which still roam the ranges in parts of the American West.

In 1971, Congress formally protected these wild horses and mandated that they could not be sold or processed into commercial products, in effect, slaughtered.

Since that time, when the Bureau of Land Management has determined that the wild horse population is excessive to the ability of the range to support them, captured animals have been offered to the public through adoption.

All of that changed as a result of a rider tucked away in the dead of night in the massive omnibus appropriations bill enacted last December.

With no public notice or comment, this rider trashed 33 years of national policy and lifted the prohibition on the commercial sale of America's wild horses.

Today, the gentleman from Kentucky (Mr. WHITFIELD) and I, along with our colleagues, the gentleman from New York (Mr. SWEENEY) and the gentleman from South Carolina (Mr. SPRATT), are offering this amendment to restore that prohibition, to stop the slaughter.

There is an urgency here. So far this year, 41 wild horses that we know of have been sent to one of the three foreign-owned slaughterhouses in this country. Moreover, the BLM has estimated that 8,400 horses need to be sold to comply with the recent change in the law.

To what end? To what end, I ask? So their meat can end up on menus in France, Belgium and Japan where it is considered a delicacy.

Incredible, simply incredible. We do not allow the commercial sale of horse flesh in this country for human consumption, but we are exporting horse meat for that purpose abroad.

Since introducing the legislation which is the basis for this amendment, I have received an impressive volume of heartfelt letters and e-mails from across the Nation.

The very notion that wild American horses would be slaughtered as a food source for foreign gourmets has struck a chord with the American people.

They see in this issue the pioneering spirit and the ideals of freedom, and the current policy has created disillusionment with many over how their government works and what their elected leaders stand for.

From Florida, Stacey wrote, ''Knowing that the horses won't be there for my kids has made me feel sad, hurt and angry at our government.''

A former West Virginian named Valerie who now resides in Nevada wrote, ''I, and our friends, have enjoyed going on to the desert to see wild horses roaming free.''

Jeremy from Oregon wrote, ''Your support will help to restore the public's confidence by assuring us that Congress operates under the principles of for the people and by the people.''

We must restore the people's faith. We must stop the slaughter of these American icons.

A week and a half ago, an annual rite of spring was held called the Running of the Kentucky Derby, a uniquely American institution.

I am wearing on my lapel a pin here, a symbol which bears the likeness of Ferdinand who won the 1986 Derby and the 1987 Breeders' Cup Classic, notable achievements. Yet his reward was to end his life in a Japanese slaughterhouse. Ferdinand was not a wild horse, true, from the American plain, but the issue is one in the same.

As children, many of us recall reading the compelling story in the book ''Misty of Chincoteague.'' What type of message would we be sending today's

youth if Misty was rounded up and sent to be slaughtered.

For Misty's sake, for America's sake, vote for the Rahall-Whitfield amendment.

Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. WHITFIELD), a cosponsor of the amendment.

Mr. WHITFIELD. Mr. Chairman, I want to thank the gentleman for yielding me time very much; and as he so aptly stated, we would not be here today except for the action of Senator CONRAD Burns in the last omnibus bill.

What this motion and amendment that we are proposing today is really about, it is not so much about a few wild mustangs and burros, only 31,000 remaining in the wild western grazing lands. But what this is really about, it is about the fact that we have 18,000 permits issued by the Bureau of Land Management to ranchers in the West on 214 million acres of land, of which these ranchers are paying less than six cents per acre, per year. Now that is a good deal, and I can understand why they would be excited about it. They are grazing over 8 or 9 million cows on this land, and we are talking about 31,000 wild mustangs and burros on this 214 million acres of land, and the ranchers do not want any wild mustangs or burros on this land. That is really what this is all about.

The question becomes, is it in the heritage of America to protect the few remaining wild mustangs and burros? This amendment simply reverses the Burns amendment and restores 37 years of public policy of protecting wild mustangs and burros.

I can tell my colleagues I have a lot of cattle ranchers in my district in Kentucky, and they are in Tennessee and Florida and Texas and Alabama and Mississippi and Louisiana and all around this country, and all of them pay a lot more than six cents per acre per year for these permits and for land.

I might also add that these 18,000 permits of ranchers on these grazing lands in the West provide only 2 percent of the cows slaughtered in America, and we all like a good steak. We want to continue slaughtering cows for steaks because they are raised for that purpose; but we also have a responsibility to protect wild mustangs and burros who are native to this country, who have been protected in this country. They simply lost that protection because of a 4,000 page omnibus bill, and none of us was aware that the Burns amendment was in it.

□ 1800

So that is what this amendment is about.

Mr. RAHALL. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. SWEENEY).

Mr. SWEENEY. Mr. Chairman, I thank the gentleman for yielding me this time, and I want to get briefly to the point.

We can all have our differences as it relates to this issue, but as my colleagues have pointed out so appropriately, surreptitiously last year, snuck into the omnibus bill, is a piece of legislation that many of us have disagreement over. We all agree in this appropriation process that that is not the way Congress ought to go about doing its business and, worse yet, that legislation overturned decades, indeed generations of Congressional policy.

Now, we can argue the substance and the differences as to whether this is economically feasible and right, and whether this is humane or not, but the fact of the matter is it was surreptitiously snuck in, it ought not to have happened, I believe it violates policy for more than a generation and 30 to 40 years of Congressional intent. We ought not to let that happen. So I urge my colleagues to support this amendment.

Mr. RAHALL. Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise to claim the time in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, this issue is about the proper management of wildlife and public lands, and the Committee on Appropriations is in charge of trying to adequately fund the United States agencies. If we want to get into the question of whether or not the six cents is being paid for grazing land or anything else, you need to go to the authorizing committees and have a debate there and get it changed and so forth.

We in the Committee on Appropriations have a situation where wild horses and burros cost the taxpayers $40 million annually. Now, this is more than BLM spends on all wildlife management activities on public lands. There are currently 24,000 wild horses and burros that are kept in short-term, or long-term, either way, holding facilities. They are not roaming free. They are being housed in these short-term facilities, and that is costing $20 million, and they are living there until they die.

BLM has the authority to sell the older or unadoptable animals. Now, if they are 10 years or older, or if they have been offered three times for sale and been turned down, then this would give BLM the authority to sell these older, unadoptable animals and conserve the $40 million that we are talking about. That is what we are asking, and we think that is a prudent measure, so we urge our colleagues to defeat this amendment.

Mr. Chairman, I yield 2½ minutes to the gentleman from Nevada (Mr. GIBBONS).

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

Mr. GIBBONS. Mr. Chairman, I thank the gentleman for yielding me this time. I come from the district that has by far and away more wild horses in it than any district in the United States, bar none. Of the 30,000 horses we are talking about, 20,000 of them are in the Second District of Nevada. This amendment, if it is passed, will be a rule of unintended consequences on what happens to the management of these horses.

My colleagues, in Nevada horses do not always look beautiful like the horse that we see in Black Beauty. Sometimes they are misshapen. Sometimes they are deformed. That is because we cannot manage 20,000 horses on land which does not look like Kentucky, does not look like West Virginia. These horses get starved, they are weakened, they become diseased and, of course, they are not as easily adopted as before.

If this amendment is passed, the unintended consequence will be to prevent the Bureau of Land Management from properly managing. And today this amendment is moot. The Bureau of Land Management today announced strict new rules for the sale of wild horses. These changes will ensure America's wild horses and burros go to good homes, and the new rules will expressly prohibit the sale of these animals for slaughter.

Specifically, before horses are sold buyers must sign a contract that will bind them to providing humane care for the horse or burro. Buyers cannot sell or transfer ownership of any of the purchased horses or burros to any person or organization that intend to process them for commercial products. Anyone falsifying or concealing information in that contract is subject to criminal penalties under U.S. law.

Additionally, the BLM is working to ensure that all three U.S. horse processing plants make certain any BLM horses, which are easily identified by a unique brand under its mane, are turned away and the proper authorities are notified.

In sum, the new BLM rules will make it a crime to sell wild horses for slaughter, yet will allow for the sale of these animals to buyers seeking to provide them good caring homes.

I applaud the Bush administration and the Bureau of Land Management for taking responsible action to assure America's wild horses and burros are cared for, and I would like to thank the Ford Motor Company and the Take Pride in America Program, which this amendment will stop dead in its tracks, for supporting BLM in this effort and creating the Save the Mustangs Fund.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN of Oregon. Mr. Chairman, I rise in opposition to this amendment, and I certainly am one who is not in favor of the slaughtering of wild horses, but I am also as a fiscal conservative who is concerned about what happens along the way, because we are looking at a price of somewhere on the

order of $20 million a year to take care of the horses that nobody wants to adopt right now.

There are some 37,000 wild horses and burros roaming on BLM managed lands in 10 western States. That is 9,000 more than the carrying capacity of the land. In the few seconds I have left, I want to show my colleagues this photo. This is from Nevada. This cage was put over this grass, and this is what the wild horses have done all around it, in terms of what happens in a fairly wet area. You get into the dry areas, and they completely overrun the rangeland.

What we need to do is, if there is a problem with someone violating the law, we need to put the criminal penalties back in so they can be prosecuted, but the BLM have said they will not issue any contracts that will allow for any slaughter. Taking away their ability to sell the wild horses, however, will create a huge fiscal burden to the Federal Government and the taxpayer and not allow us to properly manage these herds.

So I urge a ''no'' vote on this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Idaho (Mr. SIMPSON).

Mr. SIMPSON. Mr. Chairman, this debate should be about one of public lands and wildlife management and nothing more. And I will be the first to say that I do not like to see these wild horses taken off the range, but at the same time they have to be properly managed.

Over the years, we in Congress and those in State governments have created a variety of methods to help control animal populations, whether it is placing a species under the protection of the Endangered Species Act when the numbers are dwindling or allowing increasing hunting for various species when the numbers of the species are too great. Wild horses should be no different.

We must remember that wild horses have virtually no natural predators and the herd sizes can double every 5 years. If these herds are not managed, wild horse numbers will increase at alarming rates. Left unmanaged wild horses not only degrade our public lands but they also create conditions where many times these horses would be unable to survive on their own.

In order to be good stewards of our public lands, these animals must be managed, and the only way to manage these herds is to take some of these animals off the range. The primary method for controlling horse populations has of course been adoption. But, unfortunately, adoptions have not kept up with our expanding wild horse and burro herds.

Mr. Chairman, I urge Members to oppose this amendment and support our public lands.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho (Mr. OTTER).

Mr. OTTER. Mr. Chairman, I thank the chairman for yielding me this time and for his leadership on this issue.

Our public lands are of multiple use and must be managed for a variety of purposes, including hunting, grazing, fishing, recreating, wildlife, and many other uses. The Horse and Wild Burros Act recognized that horses and burros would have to coexist with these other uses and have been managed thusly since 1960.

Unfortunately, horse populations have far exceeded the desirable levels for years, causing serious resource damage. Serious-minded conservation groups, such as the National Association of Conservation Districts, the International Association of Fish and Wildlife Agencies, the Nature's Conservancy, and others have recognized the damage caused by these horses.

Balanced management must be restored in the public lands where wild horses roam. In an effort to achieve this balance, Congress gave the BLM the authority to sell the excess. All this, Mr. Chairman, has been said before, and I am not going to go into it again, except I will tell you that without this authority the only feasible option is leaving unadopted excess animals in contracted long-term holding facilities that we are now doing to the cost of at least $9 million a year.

The loss of this new tool in selling would only mean that priority funding will keep going to care for and feed unadoptable animals instead of managing the number on the range and in balance with the demands of our other resources.

I would hope, Mr. Chairman, that my colleagues would see the wisdom in turning back this probably well-intended but misdirected amendment.

Mr. RAHALL. Mr. Chairman, I yield 30 seconds to the gentleman from Kentucky (Mr. WHITFIELD), the cosponsor of the amendment.

Mr. WHITFIELD. Mr. Chairman, I might add that BLM has already told us that under the Burns language they have no criminal penalties available to them. Even though they may put in a contract that a horse cannot be taken to slaughter they have no recourse if someone does it.

I would remind people once again that these are public lands, 214 million acres of land. We are talking about 30,000 wild horses we need to protect. We have companies like Ford Motor Company taking in horses now, and we have over 214 entities out in the country doing it. I think that there is plenty of money available.

Also, we would urge the BLM to euthanize horses rather than send them to slaughter. That is an option also. But this is a well-intended amendment and it would reintroduce the policy that has been the accepted policy in the U.S. for 37 years.

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

In conclusion, Mr. Chairman, the gentleman from Kentucky has just touched upon a very important point, and that is that there are alternatives available to the outright slaughter; adoption and euthanization. These are alternatives rather than the slaughter of these animals.

In regard to what the gentleman from Nevada said, that BLM has recently done, what BLM has proposed in the last day or two in an effort to head off the successful passage of this amendment is illegal under the change in law that was made by the omnibus appropriation bill last year.

And I would say to the distinguished chairman of the subcommittee, in defense of the gentleman from California (Mr. POMBO) and myself on the authorizing committee, this change was made in an appropriation bill, not in an authorization bill. Therefore, it is incumbent the change or reversal be done in an appropriation measure.

So I would urge that my colleagues look at the humane side of this amendment, look at what is only fair to these American icons and vote for the Rahall-Whitfield-Sweeney-Spratt amendment.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1½ minutes to the gentleman from Virginia (Mr. GOODLATTE), the distinguished chairman of Committee on Agriculture.

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

Mr. GOODLATTE. Mr. Chairman, this is one of those issues where our opponents are trying to use emotion to overwhelm good policy. As is usually the case in such debates, the results are exactly the opposite of what is being advocated.

So it is with the proposal to revoke the Secretary of Interior's authority to sell excess wild horses and burros. Ironically, rather than saving wild horses, the amendment will have the perverse effect of ensuring their numbers will stay at unsustainable levels, adoption efforts will be hampered, and thousands of old unadoptable horses will stay stuck in limbo in long-term holding facilities, or as the gentleman from Kentucky suggested, euthanized. Oh, that makes a lot of sense.

But this is what you get. This is what you get with this kind of policy, horses that are starving to death on the range. The BLM has conducted an analysis of their wild horse and burro program and determined that if they had not removed many of the wild horses from the range, prolonged drought, reduced forage production, and poor health would have resulted in large losses during the winter of 2005.

□ 1815

In Cedar City, Utah, for example, over 100 horses had to be removed from the range to prevent their suffering and potential starvation.

It is ironic that the authority that was used to save nearly 2,000 horses

this past year is the very authority the sponsors of this amendment are trying to repeal.

If this amendment prevails, the only method to remove these horses will be adoption, which historically has failed to keep up with the explosion of the population. Inadequacy of the adoption program has resulted in many of these horses being sentenced to spend the rest of their lives in long-term facilities unsuitable for wild horses. I urge my colleagues to oppose this amendment.

Mr. Chairman, this is one of those issues where our opponents are trying to use emotion to overwhelm good policy. As is usually the case in such debates, the results are exactly the opposite of what is being advocated.

So it is with the proposal to revoke the Secretary of the Interior's authority to sell excess wild horses and burros. Ironically, rather than saving wild horses, the amendment will have the perverse effect of ensuring that their numbers will stay at unsustainable levels, adoption efforts will be hampered, and thousands of old, unadoptable horses will stay stuck in limbo in long-term holding facilities. Horses on the range will, most likely, starve to death.

BLM has conducted an analysis of their wild horse and burro program and determined that if they had not removed many of the wild horses from the range, prolonged drought, reduced forage production and poor health would have resulted in large losses during the winter of 2005. In Cedar city, Utah, for example, over 100 horses had to be removed from the range to prevent their suffering and potential starvation. It is ironic that the authority that was used to save nearly 2000 horses this past year is the very authority the sponsors of this amendment are trying to repeal.

If this amendment prevails, the only method to remove these horses will be adoption, which historically has failed to keep up with the explosion of the population. Inadequacy of the adoption program has resulted in many of these horses being sentenced to spend the rest of their life in long term unsuitable for wild holding facilities.

Because of the overwhelming cost of these facilities at the expense of the federal government, the number of horses on the range is still well above the appropriate management levels called for in law. furthermore, one-half of the entire wild horse and burro operating budget is used to take care of ''unadoptable'' horses held in these facilities. This amendment would only cause those costs to skyrocket at the expense of the adoption program.

Last year, Congress enacted a law that allowed BLM to sell unadoptable horses that are over 10 years old or have been offered unsuccessfully for adoption three times, until the appropriate management level is reached. These proceeds are then used by BLM to help promote and finance their adoption program.

Currently there are 8400 horses in these long term facilities that need to be moved on through the program in order to prevent malnutrition and starvation that is associated with the overpopulation of the range land herds. By denying the funds to implement the sale program for wild horses and burros, this irresponsible amendment would eliminate a far more efficient tool in the management of the program. By not allowing BLM to keep the herd in manageable numbers, this amendment endangers the welfare of the wild horses by exacerbating the deplorable conditions these animals must try to survive in where their only escape is death by starvation.

Vote for the welfare of the wild horses. Vote ''no'' on the Rahall-Whitfield Amendment.

Ms. HERSETH. Mr. Chairman, today I will vote in support of the amendment to the FY06 Interior Appropriations Bill, offered by Mr. RAHALL, that will prevent the Secretary of the Interior from expending funds to conduct sales of wild horses for the next fiscal year. That said, I am not categorically opposed to the sale of wild horses that live on federal lands and will seek to work with my colleagues to find a feasible solution to the federal land management challenges that underlie this issue.

Initially, let me indicate that I believe the process by which Wild Free-Roaming Horse and Burro Act was amended, with language inserted in an omnibus appropriations act without any public hearings or comment, was extremely inappropriate and that fact alone is grounds for Congress to revisit this issue.

I strongly believe that we must provide the Bureau of Land Management (BLM) and all federal land management agencies the tools and the resources they need to conserve our precious public resources. Ultimately, this may mean granting horse-sale authority to the BLM. I do not believe, however, that these wild horses should end up in slaughterhouses. The fact that forty-one wild horses were recently slaughtered at a foreign-owned processing facility, and an additional fifty-two barely escaped the same fate, clearly demonstrates that the current sale program is flawed, despite BLM efforts to implement safeguards and pursue a measured approach in administering the sale authority.

Humane alternatives to slaughter obviously exist, and federal agencies already have the authority to carry out such humane actions as adoption, sterilization, relocation, and placement with qualified individuals and organizations. Federal land managers may simply lack the resources they need to carry out these alternatives, but the answers to such questions are currently unclear. I urge Chairman POMBO of the House Committee on Resources to hold hearings on this matter so that we can ascertain the status of the BLM's management authorities and resources. I pledge to work with him to find solutions to this issue. In the meantime, because I believe that a one-year moratorium on BLM's sale authority for wild horses is needed to allow this debate, I offer my support to the Rahall Amendment.

Mr. MORAN of Virginia. Mr. Chairman, I am pleased to support the amendment to the Department of the Interior appropriations bill being offered by Mr. RAHALL and Mr. WHITFIELD to help save a national treasure—the wild horse. The wild horse is known throughout the world as a symbol of the American west, and we should be doing everything we can to protect it.

At the turn of the 20th century there were more than one million horses roaming the vast lands of our west, however by 1971 that number dropped to approximately 60,000 due to the actions of their main predator—humans. Public outcry and the work of a group of citizens lead by Wild Horse Annie forced Congress to find a solution and pass the Wild Free Roaming Horse and Burro Protection Act to protect the wild horse. Throughout the years this law has been eroded, and currently, there are only 35,000 wild horses living on our lands today. Current law will only make this number decrease more rapidly.

I was saddened to learn about the provision in last year's omnibus appropriations bill that would allow the sale of any wild horse that has been rounded up and is more than ten years old. Because of this provision, at least forty-one wild horses have needlessly been slaughtered. If we do not pass this amendment to ensure that no tax dollars are used for any sale of wild thousands more could lose their lives.

There is no need for this senseless slaughter. There are other options that we can explore rather than killing this majestic animal. The Bureau of Land Management could reopen over one hundred herd management areas or use animal contraception methods to keep the size of the herds manageable. There is simply no reason for these horses to be slaughtered for use as meat in other countries.

The horse is more than just an animal to our country. It is a beloved literary figure, a character in a movie or television show, a symbol of adventure, a friend of the cowboy, and an important part of our history. William Shakespeare once stated that horses were, ''As full of spirit as the month of May, and as gorgeous as the sun in Midsummer.'' I can say it no better and encourage all of my colleagues to join me and support the Rahall-Whitfield amendment and help save the wild horse.

Mr. PORTER. Mr. Chairman, I rise today in opposition to the Rahall amendment. Although I appreciate the good intentions of this amendment, I am deeply concerned about its potential for unintended consequences. In restricting the ability of the Bureau of Land Management (BLM) to sell wild horses and burros under the Wild Horse and Burro Act of 1971, we are also restricting opportunities for responsible owners or groups to purchase horses that might have otherwise been sentenced to spend their lives in holding facilities or to starve on our rangelands. I disagree with the actions of individuals who purchased horses under the Act and then sold them to a slaughter plant; however, I do not believe that we should prohibit responsible people from purchasing wild horses due to the actions of a few.

This morning, the BLM announced new regulations that will strictly prohibit individuals who purchase wild horses from sending these animals to slaughter. The BLM has also entered into a partnership with Ford Motor Company to help protect these wild horses for future generations. I applaud the BLM for their proactive stance on this issue, and I am hopeful that their initiatives will be successful so that other horses are sent to slaughter.

Mr. Chairman, I represent a district in Nevada, a state that is home to more wild horses than all other states combined. Although I

agree that wild horses are a symbol of the American West, I also believe that it is the responsibility of Congress to ensure that these animals are managed, protected, and controlled in an effective manner. It is a fact that the current number of wild horses in the nation greatly exceeds the ability of the BLM or the land to handle these animals. This explosive growth causes significant resource damage, as well as damage to the animals themselves. The adoption authority granted under the Wild Horse and Burro Act of 1971 has historically failed to keep up with the growth of the wild horse population. We must work to maintain responsible and humane alternatives, such as sale authority, in order to ensure that these animals are properly cared for.

Our wild horses are already competing for scarce sources of food and water on rangelands in arid states like Nevada, causing many of them to waste into skin and bones. I believe that some of these horses should be allowed to be sold to good homes, where they can receive proper nourishment and veterinary care, as opposed to competing for little food and water in the wild or being held in long-term holding pens. This is why I am developing legislation that would offer an incentive for responsible people who would like to adopt or purchase a horse under the Wild Horse and Burro Act. This incentive will be dependent on a number of requirements, one of which will be that these animals cannot be sold to slaughter. I look forward to working with my colleagues on this issue.

The Acting CHAIRMAN (Mr. FOLEY). All time has expired.

The question is on the amendment offered by the gentleman from West Virginia (Mr. RAHALL).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. RAHALL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from West Virginia (Mr. RAHALL) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT OFFERED BY MR. DOOLITTLE

Mr. DOOLITTLE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DOOLITTLE:

At the end of the bill (before the short title), add the following new section:

SEC. 4____. None of the funds made available in this Act for the Department of the Interior may be used to implement the first proviso under the heading ''UNITED STATES FISH AND WILDLIFE SERVICE-LAND ACQUISITION''.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from California (Mr. DOOLITTLE) and a Member opposed each will control 5 minutes.

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

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

Mr. Chairman, the provision in the fiscal year 2006 appropriations bill that is the subject of this amendment would allow the Fish and Wildlife Service to sell public lands in the Lower Klamath and Tule Lake Wildlife Refuges, and use the profits from the land sales to buy water rights.

None of the delegation, which, I might add, is represented by four of us from the areas that represents this area, had approved this provision; and the Department of the Interior failed to communicate their desire to implement this program to the relevant Members of Congress.

As Members of Congress whose constituents would be affected by a provision such as this, we feel it is necessary to have time to review the proposal in order to ensure that the proposed program best suits the needs of the local communities in our districts. I might add that this event represents a trend of continuous poor communication by the Department of the Interior and therefore we must ask that our amendment be adopted.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, I thank the gentleman for bringing this to our attention, and we have no objection to the gentleman's amendment at this time.

The Acting CHAIRMAN. Does any Member rise in opposition to the amendment?

Hearing none, the question is on the amendment offered by the gentleman from California (Mr. Doolittle).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HASTINGS OF FLORIDA

Mr. HASTINGS of Florida. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HASTINGS of Florida:

At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available in this Act may be used in contravention of Executive Order 12898 (*Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations)* or to delay the implementation of that Order.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Florida (Mr. HASTINGS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Chairman, I yield myself such time as I may consume.

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

Mr. HASTINGS of Florida. Mr. Chairman, I rise today to offer an amendment to H.R. 2361 that is of critical importance to the health and well-being of minority and low-income communities throughout the United States.

In an effort to cut down on the time constraints, let me just briefly explain the amendment. It prohibits the EPA from using funds in this bill to work in contravention of Executive Order 12898 and delay the implementation of that order.

My amendment makes clear Congress's support for the executive order and its original intention to achieve health and environmental equity in minority and low-income communities.

Mr. Chairman, to seek out environmental justice is an effort to achieve health and environmental equity across all community lines. In adopting my amendment, Congress will call on EPA to move forward with the identification of at-risk minority and low-income communities so appropriate steps can be taken to improve their health and well-being.

Justice should never be reserved only for those who can afford to help themselves. I ask for my colleagues' support to ensure EPA takes the appropriate steps to protect minority and low-income communities from continued environmental injustices.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, the amendment requires EPA to comply with the executive order by the first President Bush dealing with environmental justice. We have no objection to the amendment.

Mr. HASTINGS of Florida. Mr. Chairman, I include for the RECORD the findings of the EPA Inspector General Report and those in support of the amendment.

EVALUATION REPORT: EPA NEEDS TO CONSISTENTLY IMPLEMENT THE INTENT OF THE EXECUTIVE ORDER ON ENVIRONMENTAL JUSTICE—REPORT NO. 2004–P–00007—MARCH 1, 2004

EXECUTIVE SUMMARY

Purpose

In 1994, President Clinton issued Executive Order 12898, ''Federal Action to Address Environmental Justice in Minority Populations and Low-income Populations,'' to ensure such populations are not subjected to a disproportionately high level of environmental risk. The overall objective of this evaluation was to determine how the U.S. Environmental Protection Agency (EPA) is integrating environmental justice into its day-to-day operations. Specifically, we sought to answer the following questions:

How has the Agency implemented Executive Order 12898 and integrated its concepts into EPA's regional and program offices?

How are environmental justice areas defined at the regional levels and what is the impact?

Results in brief

EPA has not fully implemented Executive Order 12898 nor consistently integrated environmental justice into its day-to-day operations. EPA has not identified minority and low-income, nor identified populations addressed in the Executive Order, and has neither defined nor developed criteria for determining disproportionately impacted. Moreover, in 2001, the Agency restated its commitment to environmental justice in a manner that does not emphasize minority and low-income populations, the intent of the Executive Order.

Although the Agency has been actively involved in implementing Executive Order 12898 for 10 years, it has not developed a clear vision or a comprehensive strategic plan, and has not established values, goals, expectations, and performance measurements. We did note that the Agency made an attempt to issue an environmental justice toolkit; endorsed environmental justice training; and required that all regional and programmatic offices submit ''Action Plans'' to develop some accountability for environmental justice integration.

In the absence of environmental justice definitions, criteria, or standards from the Agency, many regional and program offices have taken steps, individually, to implement environmental justice policies. This has resulted in inconsistent approaches by the regional offices. Thus, the implementation of environmental justice actions is dependent not only on minority and income status but on the EPA region in which the person resides. Our comparison of how environmental justice protocols used by three different regions would apply to the same city showed a wide disparity in protected populations.

We believe the Agency is bound by the requirements of Executive Order 12898 and does not have the authority to reinterpret the order. The Acting Deputy Administrator needs to reaffirm that the Executive Order 12898 applies specifically to minority and low-income populations that are disproportionately impacted. After 10 years, there is an urgent need for the Agency to standardize environmental justice definitions, goals, and measurements for the consistent implementation and integration of environmental justice at EPA.

Recommendations

We recommended that the Acting Deputy Administrator issue a memorandum reaffirming that Executive Order 12898 is an Agency priority and that minority and low-income populations disproportionately impacted will be the beneficiaries of this Executive Order. Additionally, EPA should establish specific time frames for the development of definitions, goals, and measurements. Furthermore, we recommended that EPA develop and articulate a clear vision on the Agency's approach to environmental justice. We also recommended that EPA develop a comprehensive strategic plan, ensure appropriate training is provided, clearly define the mission of the Office of Environmental Justice, determine if adequate resources are being applied to environmental justice, and develop a systematic approach to gathering information related to environmental justice.

Agency comments and OIG evaluation

In the response to our draft report, the Agency disagreed with the central premise that Executive Order 12898 requires the Agency to identify and address the environmental effects of its programs on minority and low-income populations. The Agency believes the Executive Order ''instructs the Agency to identify and address the disproportionately high and adverse human health or environmental, effects of it (sic) programs, policies, and activities.'' The Agency does not take into account the inclusion of the minority and low-income populations, and indicated it is attempting to provide environmental justice for everyone. While providing adequate environmental justice to the entire population is commendable, doing so had already been EPA's mission prior to implementation of the Executive Order; we do not believe the intent of the Executive Order was simply to reiterate that mission. We believe the Executive Order was specifically issued to provide environmental justice to minority and/or low-income populations due to concerns that those populations had been disproportionately impacted by environmental risk.

A summary of the Agency's response and our evaluation is included at the end of each chapter. The Agency's complete response and our evaluation of that response are included in Appendices D and E, respectively.

MAY 19, 2005.

Re support the Hastings Environmental Justice Amendment

DEAR REPRESENTATIVE: On behalf of our organizations, members, and supporters nationwide, we write to express our support for Representative Alcee Hastings' (D–FL) environmental justice amendment that will be offered to the Interior-EPA Appropriations bill.

The Hastings amendment will ensure that funds spent at the U.S. EPA cannot be spent in any way that conflicts with the 1994 Executive Order ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.'' EO 12898 directs each federal agency to develop an environmental justice strategy ''that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, or activities on minority populations and low-income populations'' with the goal of achieving equity in federally-funded programs for those communities.

The Hastings amendment is needed to get EPA to take the next steps that are needed to achieve the promise of fairness and equal treatment for minority and low-income communities in federal environmental programs.

Studies conducted by both government and non-government panels, including the National Academy of Sciences and the United Church of Christ have found that minority and low-income communities experience greater and more frequent exposures to unhealthy levels of environmental pollutants than other communities.

This problem was first addressed at EPA in 1992 when President George H.W. Bush created the Office of Environmental Equity at EPA (now the Office of Environmental Justice); it was addressed a second time by President Clinton, when he issued the Executive Order in 1994. Yet the EPA has so far failed to adopt needed measures to meaningfully address and correct this unequal treatment under environmental laws. The agency's failure to move forward on the important issue of environmental justice has been documented recently by the U.S. Commission on Civil Rights, and the EPA's Office of the Inspector General.

The Hastings amendment does not place new requirements on the EPA, but rather provides direction for the agency to fulfill its longstanding obligation to ensure that minority and low-income populations are not exposed to dangerous and disproportionately high levels of air pollution, water contamination, toxic hazards, or other environmental and health threats in their communities.

We urge you to cast your vote in support of the Hastings environmental justice amendment.

Sincerely,

Roger Rivera, President, National Hispanic Environmental Council; Robert D. Bullard, Director, Environmental Justice Resource Center, Clark Atlanta University (Atlanta, GA); Ansje Miller, Director, Environmental Justice & Climate Change Initiative (Oakland, CA); Beverly Wright, Director, Deep South Center for Environmental Justice, Dillard University (New Orleans, LA); Craig Williams, Director, Chemical Weapons Working Group (Berea, KY); Martin Hayden, Legislative Director, Earthjustice; Michael Greene, Director, Center for Environmental Health (Oakland, CA); and David Christian, President, Serving Alabama's Future Environment (Jacksonville, AL).

Hilary Shelton, Director, Washington Bureau, NAACP; Martina Cartwright, Director, Environmental Law & Justice Center, Texas Southern University (Houston, TX); Peggy Shepherd, Executive Director, West Harlem Environmental Action (New York City, NY); Henry Clark, Director, West County Toxics Coalition (Richmond, CA); Tom Stephens, Director, National Lawyers Guild, Sugar Law Center (Detroit, MI); Luke Cole, Director, Center for Race, Poverty and the Environment (San Francisco, CA); Rufus Kinney, President, Families Concerned About Nerve Gas Incineration (Anniston, AL); and Reverend N.Q. Reynolds, President, Calhoun County Chapter of the Southern Christian Leadership Conference (Anniston, AL).

Robert O. Muller, President, Vietnam Veterans of America Foundation; Evelyn Yates, President, Pine Bluff for Safe Disposal (Pine Bluff, AR); John Nunn, President, Coalition for Safe Disposal (Worton, MD); Karyn Jones, President, GASP (Hermiston, OR); J. Daryl Byler, Director, Mennonite Central Committee Washington Office; Vernice Miller-Travis, Miller-Travis & Associates, (Washington, DC); Donele Wilkins, Executive Director, Detroiters Working for Environmental Justice; and Monique Harden, Co-Director, Nathalie Walker, Co-Director, Advocates for Environmental Human Rights (New Orleans, LA).

Jeanette Champion, President, Citizens for Environmental Justice (Anniston, AL); Sara Morgan, President, Citizens Against Incineration at Newport (Newport, IN); Jason Groenwald, Director, Families Against Incinerator Risk (Salt Lake City, UT); Peter Hille, President, Kentucky Environmental Foundation (Berea, KY); Douglas Meiklejohn, Executive Director, New Mexico Environmental Law Center (Santa Fe, NM); Rev. Anthony Evans, Director, National Black Church Initiative; and National Black Environmental Justice Network.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. HASTINGS).

The amendment was agreed to.

AMENDMENT NO. 11 OFFERED BY MR. HEFLEY

Mr. HEFLEY. 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. 11 offered by Mr. HEFLEY:

At the end of the bill (before the short title), insert the following:

SEC. ___. Total appropriations made in this Act (other than appropriations required to be made by a provision of law) are hereby reduced by $261,591,250.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Colorado (Mr. HEFLEY) and the gentleman from North Carolina (Mr. TAYLOR) each will control 5 minutes.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

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

Mr. Chairman, the amendment is identical to those I have offered to appropriations bills for the past couple of

years. The amendment trims outlays for H.R. 2361 by 1 percent under the Holman Rule, which means if the amendment passes, it will be up to the administration to determine where the cuts will fall.

I want to thank the gentleman from North Carolina (Mr. TAYLOR), the gentleman from Washington (Mr. DICKS), the ranking member. As always, they have done a solid job of this. I understand the dynamics of bringing a bill out of committee. They have done a good job. They are below what would have been expected, but we are still not at a balanced budget; and so I offer this amendment.

In fact, just the other day a Democratic colleague mentioned this bill and said the gentleman from North Carolina (Mr. TAYLOR) is ''as tight as a snare drum,'' and I take that as an extreme compliment. That said, I do not think the funding levels of this bill are reflective of a country with a $340 billion deficit.

The amendment would trim a penny on the dollar across the agencies funded by this bill. Despite the stripped-down character of the bill, I think there are still some areas worthy of examination.

For example, the Kennedy Center for Performing Arts. Some years ago as a member of the House Interior Committee, I heard testimony on deaccessioning the Kennedy Center from the National Park Service. James Wolfensohn, its director and later head of the World Bank, pleaded with the subcommittee to cut the center loose. He said the center needed millions of dollars in structural repairs, yet he could not move forward on them because of the Park Service contracting requirements and inflated costs. ''Let us raise our own funds and we will be able to do this much more efficiently,'' he said. And so we did.

We got rid of the Kennedy Center, except that we did not really. The only National Park Service cut loose in the past 20 years, supposedly, and yet in this bill it includes $17.8 million for operation and maintenance at the Kennedy Center and $10 million for construction.

Now, I know the Kennedy Center has serious structural problems, but given the legislative history of this issue, I would like to know how long we are going to continue to have this center that we have to fund. That is just one example.

I question whether the various agencies really need all of the new vehicles authorized in this bill. I estimate at least $5 million for those. I question some of the administrative accounts.

The chairman has done a fine job in reining in costs, particularly in the area of land acquisition; but at a time of a $300-plus million deficit, we need to do more. This amendment would do that. Even in a small way, I encourage support of this amendment.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the gentleman's amendment. The gentleman makes good points, and if he and I were the only two Members of Congress, we could probably sit down and come up with a tighter bill. There are 435 Members in the House, and we have 100 over in the Senate. We have tried to put together a balanced bill. Because of that, we have cut many things and had a very difficult time in doing it. I would have to strongly object to the gentleman's amendment.

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

Mr. DICKS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have fought over the last few years to reinsert funding for the Park Service to take care of their uncontrollable costs, and we had a hard time doing that. We find out that 1 percent, when it is added up, is $261 million. That is a very significant hit on these accounts in this important agency.

I would urge that Members support the chairman and we vote this amendment down.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield back the balance of my time.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. HEFLEY. 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 Colorado (Mr. HEFLEY) will be postponed.

AMENDMENT NO. 5 OFFERED BY MR. STUPAK

Mr. STUPAK. 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 Mr. STUPAK:

At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available in this Act may be used to finalize, issue, implement, or enforce the proposed policy of the Environmental Protection Agency entitled ''National Pollutant Discharge Elimination System (NPDES) Permit Requirements for Municipal Wastewater Treatment During Wet Weather Conditions'', dated November 3, 2003 (68 Fed. Reg. 63042).

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Michigan (Mr. STUPAK) and the gentleman from North Carolina (Mr. TAYLOR) each will control 10 minutes.

The Chair recognizes the gentleman from Michigan (Mr. STUPAK).

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

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

Mr. STUPAK. Mr. Chairman, our amendment would stop the EPA from moving forward with a dangerous proposal that would allow more partially treated sewage into our waterways. This morning the EPA issued a statement saying it will not finalize its current proposal. The EPA has been mulling over this policy change for nearly 2 years.

I am pleased to see that the EPA has now recognized that this policy proposal is bad for our health, bad for our environment, and bad for business. Now Congress needs to seal the deal by passing our amendment to make sure this misguided proposal is gone for good.

Let me clarify something that has been misunderstood. Our amendment will not cost a thing. It will not change a thing. It leaves things just the way they are right now.

Currently, clean water rules say during major wet weather events, sewage treatment plants are allowed to combine the filtered but untreated human sewage with fully treated waste water before discharge, in a process known as ''blending,'' when no other feasible alternative exists.

The EPA's 2003 proposal would weaken current environmental standards by allowing facilities to discharge largely untreated sewage virtually anytime it rains. Our amendment simply stops the EPA from weakening existing environmental standards and requires that sewage be effectively treated to remove the viruses, parasites, and bacteria that make people sick.

I know many of my colleagues are hearing that this amendment will pose astronomical costs on local communities. That is simply not true. This amendment will not cost communities a dime. Our amendment would maintain the current policy. It would not prevent utilities from blending under any of the current allowable legal circumstances. It would merely support current safeguards which do not allow blending when full treatment is feasible. Let me repeat that. Our amendment will not ban blending.

We have a clear policy choice. Should we provide effective treatment for sewage, remove pollutants that poison drinking water sources, close beaches, contaminate shellfish, make people sick, and rob the water of oxygen the fish need to breathe? Or should we allow routine discharges of inadequately treated sewage virtually every time it rains? To ask the question is to answer it. The choice is clear just as it has been under the Clean Water Act for the past 30 years.

Congress needs to send a strong, clear message on behalf of our constituents. We do not want human waste in the water we drink and swim in. As a step in the right direction, vote ''yes'' on the bipartisan Stupak/Shaw/Pallone/Miller amendment.

GROUPS WEIGHING IN AGAINST EPA'S SEWAGE PROPOSAL

American Littoral Society; American Public Health Association; American Shore and Beach Preservation Assoc.; American Rivers; Children's Environmental Health Network; Citizens Campaign for the Environment; Clean Ocean Action; Clean Water Action; Coast Alliance; East Coast Shellfish Growers Association; Earthjustice; US Conference of Catholic Bishops; Environmental Integrity Project; and Coalition on the Environment and Jewish Life.

Lake Michigan Federation; League of Conservation Voters; National Fisheries Management Institute; Natural Resources Defense Council; New York Rivers United; Pacific Shellfish Growers Association; Physicians for Social Responsibility; Riverkeeper, Inc.; Sierra Club; Surfers' Environmental Alliance; Surfrider Foundation; The Ocean Conservancy; US PIRG; and US Conference on Catholic Bishops.

Mr. Chairman, I thank the gentleman for raising this concern and want to clarify this issue for him.

The short answer is "no."

My amendment would not change the existing requirements for CSO communities, which are outlined in the 1994 CSO Policy and were incorporated in the CWA in 2000.

The CSO policy allows combined sewer systems to bypass secondary treatment when it is not feasible to provide full treatment for sewage.

Bypassing is allowed under the CSO policy as part of a long-term plan to minimize sewer overflows and maximize treatment.

EPA's proposed sewage dumping policy is inconsistent with the 1994 CSO policy because it would allow bypassing full treatment even when it is feasible.

The proposed policy would undercut those communities investing in long-term solutions that are protective of public health, the environment, and downstream economies.

The proposed policy would also allow separate sanitary sewer systems to bypass secondary treatment and discharge largely untreated sewage even if full treatment would be feasible, as it should be under normal operating conditions for most well operated and maintained separate sanitary systems.

Given the heavy load of viruses, parasites, bacteria, toxic chemicals, and other contaminants in sewage, it is critical that sewage treatment plants strive to achieve full treatment, not just discharge poorly treated sewage because it is cheaper to do so.

I also incorporated Mr. MEEHAN's statement relating blending policy to this statement.

Mr. STUPAK. Mr. Chairman, I reserve the balance of my time.

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Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

First I all I would like to read a letter from the Assistant Administrator of the Environmental Protection Agency:

''Dear Chairman Taylor:

''This is regarding the November 2003 Draft Blending Policy which addresses the management of peak wet weather flows at municipal wastewater treatment facilities. The draft policy received extensive public comment and has been the subject of considerable ongoing discussion and debate, including being the focus of a recent hearing before the House Subcommittee on Water Resources and Environment.

''Based on our review of all of the information received, we have no intention of finalizing the blending policy as proposed in November 2003. We continue to review policy and regulatory options to manage this issue.''

I think this letter is self-explanatory.

Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee (Mr. DUNCAN), the distinguished chairman of the Subcommittee on Water Resources and Environment.

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

Mr. Chairman, the author of this amendment, the gentleman from Michigan (Mr. STUPAK), is a good man and a good friend of mine and I think he is well intentioned, but I think my colleagues should know that this amendment is opposed by the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the National Rural Water Association, and 38 other national and State water organizations whose job it is to protect the environment and provide communities with clean water.

Let me tell you why these organizations oppose this amendment. Communities all over the country have wastewater treatment plants that are designed and permitted to allow blending during extreme wet weather events. That is only a very small percentage of the time, usually maybe 2 or 3 percent.

These plant designs allow communities to prevent sewer overflows and meet all Clean Water Act standards in a cost-effective way. If blending is prohibited, then cities like Atlanta, Detroit, Cincinnati, Tacoma, Portland, Oregon, Boston and many, many others would have to spend billions of dollars to change their wastewater treatment plant designs, all to deal with extreme wet weather events that occur only once or twice a year. Some individual cities could have to spend as much as $100 million on this or perhaps even more.

Blending has been mischaracterized as the discharge of raw sewage. This is not true. Here are the facts. During normal dry weather operation of a typical wastewater treatment plant, the wastewater receives three stages of treatment: solids removal, biological treatment, and disinfection. During extreme wet weather events, wastewater flows can exceed the capacity of the biological treatment unit. In those cases a plant then treats it twice. This blending does not mean the discharge of raw sewage into any river or waterway. These flows are recombined and blended with wastewater chemical treatments and so forth and disinfection so that it meets all Clean Water Act water quality and technology-based treatment standards.

This practice is not a bypass around treatment because it is part of the plant's permitted treatment design.

We held a hearing on this. Let me just tell you a few quotes from some of the experts.

One person from the Ohio River Valley Water Sanitation Commission said, ''In the case of the Ohio River, without our blending policy more untreated overflows would occur and the water quality impacts of wet weather would be more damaging.''

The head of an agency in California said, ''With blending, our member communities can provide the maximum clean water treatment possible to unpredictable, exceptionally heavy rains and snowmelt, while still meeting permit limits which are set to protect public health and the environment.''

A water executive from Little Rock, Arkansas, said, ''Blending protects public utility infrastructure by preventing washout of sensitive biological systems and protects public health and private property.''

Another official said, ''A prohibition of blending will result in the need for extremely expensive facility upgrades that will not result in any meaningful improvement to water quality or protection of the public health.''

If we prohibit blending, it will cause worse environmental trouble than if we allow these experts and these utilities to proceed with it. There is a lot of misunderstanding on this issue. What we should do is we should work with the gentleman from Michigan because what he wants to accomplish and what we want to accomplish is really the same thing. We need to have more work on this before we leap into this very complicated situation.

Mr. STUPAK. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. SHAW), one of the cosponsors of this amendment.

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

Mr. Chairman, I am very pleased to offer this amendment along with my colleagues because the EPA's proposed guidance would hurt water treatment practices already in place in my home State of Florida.

Governor Jeb Bush and the Florida Department of Environmental Protection support this amendment. I am not here to impose any added costs to treatment plants. There is a rumor, as has just been expressed by my friend from Tennessee, that our amendment would cost upwards of $200 billion in added costs to cities. This is just plain wrong. Our amendment does not impose any new regulations. It simply allows cities and States to maintain their current level of water treatment practices. Florida has a higher level of treatment and should not be forced to step back.

I urge my colleagues to vote ''yes'' on the Stupak-Shaw-Pallone-Miller amendment. A ''yes'' vote is a vote for safe, clean water.

Mr. STUPAK. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. PALLONE), also a cosponsor of our amendment.

Mr. PALLONE. Mr. Chairman, I am also pleased to be a cosponsor of this amendment.

Let me be very clear. This amendment would not ban all blending. In fact, it would have no effect on any currently permitted uses of blending. The Clean Water Act already says you can blend but only during a serious rain event. The EPA's proposed policy change, however, would let sewer operators bypass secondary treatment anytime it rains. That is what really could add a lot more sewage to our waters.

I have been fighting this proposal every step of the way and the EPA has finally said they are not going to do it. However, we must make sure that they do not. I understand that the EPA is now saying they are no longer going to finalize this proposed policy change, but they could change their mind tomorrow.

It should be a very easy vote for Members. We are saying that this is a bad idea. The EPA is now saying it is a bad idea. We are just making sure that the EPA actually does what it says it will do, because, who knows, tomorrow they may change their mind. But I do not want anybody here to think that all blending is going to be banned. You can still do it during a serious rain event, but you should not be allowed to do it anytime you want because that is going to increase tremendously the volume of material that does not have secondary treatment. And you will not have secondary treatment if you allow this policy to go ahead. It will be able to make an exemption anytime you please, and that is the problem. Our waters will get dirty. It will affect our tourism, our shellfish in coastal States around the country. Do not allow it to happen.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Does the gentleman intend his amendment to have any impact on the policies of the EPA regions and States that allow blending today and have issued permits allowing blending?

Mr. STUPAK. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Michigan.

Mr. STUPAK. Mr. Chairman, I thank the gentleman for his question, but our amendment does not intend to have any impact on any of the existing policies of EPA regions and States that allow blending or on any Clean Water Act permit that allows blending. We are saying maintain the status quo.

Mr. TAYLOR of North Carolina. Mr. Chairman, reclaiming my time, we would accept the gentleman's amendment under that representation.

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

Mr. STUPAK. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. MILLER), also a coauthor of this amendment.

Mr. MILLER of Florida. I thank my good friend for yielding time.

Mr. Chairman, obviously we are here tonight to talk about just a commonsense issue in regards to this blending issue. I, in fact, have been involved in the construction of and the management of wastewater treatment plants. Blending is used obviously in very high water times and I think that that is an issue that we have heard raised tonight. We are not in any way trying to stop the issue of blending during the storm season, but the fact of the matter is, in 2003 there were more than 18,000 closings or advisories around the United States and that was 5,000 more than ever at any time before. These closings were due to fecal coliform increases in bacterial levels outside of the norm.

The fact of the matter is it does not take a medical degree to understand that this is a health issue for our families and our children that are out there that are actually swimming sometimes in this waste. In fact, we are looking at the blending of untreated solid free waste with treated sewage. The Clean Water Act already allows for that blending to take place.

As the gentleman from Michigan says, we are not trying to change the last resort issue. What we are trying to do is to set up an issue where we cannot have these wastewater treatment plants continue to dump more less treated or smaller treated wastewater into our waterways.

Mr. STUPAK. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I rise in strong support of this amendment offered by my colleagues which will prevent the EPA from finalizing a policy that may increase the risks of waterborne illness and harm our Nation's waterways. Thirty-three years after the passage of the Clean Water Act, the EPA should not be implementing policies which will allow more sewage into our waterways. Such a policy could result in water systems with more pathogens, viruses, bacteria and parasites that make people sick, contaminate our drinking water supplies, harm fish and other aquatic life.

I believe this is a misguided policy. The use of secondary biological treatment to remove bacteria and pathogens from sewage has been in place for decades in order to protect the public from waterborne illnesses, and I believe we must preserve these longstanding standards. Blending waste streams at times other than natural emergencies will result in an unnecessary discharge of harmful contaminants into our waters. We have a responsibility to fully treat all wastewater, and the EPA's proposal to bypass the crucial second treatment step and allow more bacteria into our local water sources is just plain wrong.

We should be focused more on strengthening the federal commitment to water infrastructure, which we all know has been stagnant for many years now.

I plan soon on reintroducing my bill, the Clean Water Infrastructure Financing Act, which will authorize funding levels in the Clean Water State Revolving Fund which better reflect the considerable depth of our Nation's wastewater infrastructure needs.

I urge strong support for this amendment because we must invest in effective sewage treatment to help ensure that our constituents are protected from health hazards. Effective sewage treatment will reduce the risk of waterborne illness and protect public health.

Again, I thank my colleagues Mr. STUPAK, Mr. SHAW, Mr. MILLER and Mr. PALLONE for offering this important amendment and urge strong support from my colleagues.

I would also like to thank my colleagues Mr. TAYLOR and Mr. DICKS and their staff for their hard work with the difficult task of putting this bill together.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) who supports the amendment.

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I thank the gentleman from North Carolina for agreeing to this amendment.

Mr. Chairman, water is one of the most precious resources Floridians possess. Representing several of the State's largest water reserves, protecting the quality and availability of our water has always been a top priority.

Unfortunately, the EPA is proposing this dumping rule that would damage the integrity of America's water. The proposed rule which they now have said that they are not going to implement was not a very well thought out one. The blended wastewater concept would then be discharged into our waterways. The consequences of this strategy could be very dire. Certainly in a State like Florida where we have more than our share of heavy rains during rainy season, and you can be darn sure we are going to have a lot of hurricanes again, it would be virtually playing Russian roulette every time that citizens would be drinking tap water.

I cannot in good conscience allow the rule to go forward and have that communicated to the EPA. I am very delighted that today a letter did come from them that they are not going forward with this. But keeping it in the legislation is very wise policy.

Mr. STUPAK. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. FITZPATRICK) who has been helping us on this amendment.

Mr. FITZPATRICK of Pennsylvania. Mr. Chairman, I rise tonight in strong support of the Stupak amendment to the Interior appropriations bill. This amendment will stop the EPA's ill-advised proposal to allow treatment plants to dump untreated sewage into our Nation's waterways.

Mr. Chairman, the EPA's proposed change is just plain a bad idea. In fact, just this morning as we have heard, the EPA recognized just how bad an idea it was and announced that it was reconsidering its proposal. It is a bad idea to permit our water to contain bacteria, viruses, parasites and intestinal worms

capable of causing cholera, hepatitis, gastroenteritis and dysentery. The EPA steps backward when it advocates for polluters to discharge halfway-treated sewage into our Nation's waters. Notwithstanding today's EPA decision to reconsider its proposed policy change, it remains necessary to pass this amendment.

I urge my colleagues to vote in favor of the amendment and ensure that the EPA does not change its mind again and attempt to impose an imprudent sewage blending policy on America at some point in the future.

Mr. STUPAK. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois (Mr. KIRK) who has been very helpful on this amendment.

Mr. KIRK. Mr. Chairman, I thank the gentleman for yielding time. I want to really applaud the gentleman from Michigan for putting together a truly bipartisan amendment that not only put together a broad coalition of Members in this House, including the chairman of the subcommittee, who has accepted the amendment, to stop this blending regulation.

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We all saw when Milwaukee dumped over 4 billion gallons of sewage into Lake Michigan just last year and an incredible rise in the number of beach closings along the Illinois shoreline: Nine in Glencoe, 12 in Wilmette, 34 in Winnetka, a rising tide of dirty water that would have been increased with this.

But what this bipartisan amendment has done is it has backed down the EPA. Thanks to his work and Members on both sides of this aisle, the EPA has largely accepted what this amendment would have already laid out and have stopped this regulation. It is going to listen to the Congress on environmental protection, and I really want to thank my subcommittee chairman for accepting this amendment.

The Acting CHAIRMAN (Mr. FOLEY). The time of the gentleman from Michigan (Mr. STUPAK) has expired. The gentleman from North Carolina (Mr. TAYLOR) has 4 minutes remaining.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. STUPAK. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Michigan.

Mr. STUPAK. Mr. Chairman, I thank the chairman for yielding to me.

Can the chairman clarify that the intent of our amendment is to ensure that all EPA regions and all the permits that are written will comply with the current Clean Water Act rules and safeguards? Is that his intent also?

Mr. TAYLOR of North Carolina. Mr. Chairman, reclaiming my time, it is my understanding, but I would like to talk with the gentleman. This is a new area, a new part of the committee, and I would like to work with him as we go on with the bill toward conference. But that is my understanding.

Mr. STUPAK. Mr. Chairman, if the gentleman will continue to yield, with the understanding, and it is certainly our understanding, that all EPA regions and all permits that are written must comply with the Clean Water Act rules and safeguards, and that is the only thing we are trying to do here. We are not trying to change anything. So with the assurances from the chairman that he will make sure that that is what we are going to do and we have some time to clarify this even further, we will not ask for a recorded vote. We accept his courtesy that he will accept our amendment and make it a part of the bill, and we look forward to working with him on this and other related matters.

I want to thank the gentleman from Tennessee (Mr. DUNCAN) also for his work in this area, along with the gentleman from Washington (Mr. DICKS) and the Members on our side.

Mr. TAYLOR of North Carolina. Mr. Chairman, reclaiming my time, I appreciate the gentleman's activity. We will work with him.

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

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at this point I had intended to offer an amendment to the Stupak amendment because I am certainly in support of the content. But given the agreement that has been reached between the two parties, there is no need for me to offer that amendment.

I would simply observe, however, that I hope we do not kid ourselves. It is very good that this amendment is being adopted, but it again illustrates the need for, in fact, increasing, rather than reducing, the amount of money that we put into the Clean Water Revolving Fund, and I would hope that we would remember this as the bill goes through the system because we can avoid controversies such as this. We can avoid putting EPA into a position of even considering such an outlandish regulation if we are providing much more by way of financial help to the communities so that they will not be concerned about stiffening EPA regulations to protect public health.

Mr. MEEHAN. Mr. Chairman, I move to strike the last word.

Mr. MEEHAN. Mr. Chairman, I rise to applaud my good friend, the gentleman from Michigan, for his commitment to protecting public health and the environment.

Over the last century, the nation's wastewater infrastructure has resulted in enormous strides in improving public health.

I represent the Merrimack Valley region of Massachusetts.

The Merrimack River was once among the most polluted waterways in the nation.

Moreover, the northeast is ridden with outmoded sewer infrastructure that is designed to overflow into public waterways.

During heavy weather, these combined sewer systems steer raw, untreated sewage into rivers like the Merrimack, and bays such as Casco bay in Maine.

The challenge to control cso's has been both of technical and financial feasibility.

Some treatment plants use a blending bypass during periods of heavy weather so that cso's receive some treatment rather than none at all.

In economically-distressed communities such as Lawrence, Haverhill, and Lowell that have combined sewer systems, it is not currently possible to provide full treatment for all sewage during wet weather.

I seek assurance from the gentleman from Michigan that his amendment would not prohibit cso communities from blending if it is authorized by their permits in accordance with the Clean Water Act.

Mr. DAVIS of Illinois. Mr. Chairman, I rise in strong support for the Stupak/Shaw anti-sewage dumping amendment. Each year, 850 billion gallons of contaminated sewage poisons lakes, rivers, and oceans each year. Discharging inadequately treated sewage into our waterways harms the environment, our constituents' health, and even our economic growth. By permitting ''blending'' during standard weather systems, we are providing our citizens with a false sense of security that we are furnishing them with safe conditions. When the secondary treatment of sewage water is sidestepped, the citizens face exposure to viruses, parasites, bacteria, and toxic chemicals that can cause Hepatitis A and Giardia. Further, this puts small children, the elderly, and those already vulnerable by other illnesses with additional life threatening conditions. Not only is health at risk, but the economy. Many industries work from lake and ocean commodities. Subsequently, blended sewage in the water would destroy much of their viable product. In my own district, in the heart of Chicago, routine blending will inhibit my constituents' use of the lakefront beaches, harm our water industries, and make the drinking water dangerous and even deadly.

These devastating and misguided decisions will damage not only the current, and already failing situation, but also our long term solutions. By allowing routine blending, it will only increase the concentration of the contaminant in our environment. Other solutions must be considered. For example, constructing additional facilities to hold sewage until it is fully treated can transfer some of the overflow problem. Therefore, I urge my fellow colleagues to prohibit these policies from being changed. With our continued efforts, we can continue to provide a healthy and productive environment for our citizens.

Ms. WOOLSEY. Mr. Chairman, how much farther are we going to have to roll back the clock before we realize the harm that we are doing to our environment? Do we have to get to the point of rivers catching on fire again?

The EPA, the agency that is supposed to be protecting our environment, is attempting to turn back the clock by releasing a new policy that will increase waterborne diseases and deaths.

This latest EPA policy to allow sewage treatment plants to routinely divert untreated sewage into our rivers and oceans, where we get our water and where we swim is not something that appeals to me.

Instead of turning back the clock and allowing sewage to flow freely in our rivers, we must increase our investment in upgrading

wastewater treatment plants. Ironically, this bill actually decreases the amount of federal funding for upgrading wastewater treatment plants.

It is time that we started moving forward and not backward on protecting our rivers and our oceans. I urge all of my colleagues to join me in supporting this important amendment.

Mr. PASCRELL. Mr. Chairman, our communities are on the front lines in their attempts to meet the requirements of the Clean Water Act.

Hundreds of billions of dollars are needed to meet real and pressing needs, and the federal government is not paying its fair share.

As a former Mayor and lifelong resident of Paterson, NJ, I can personally attest that our cities are struggling to make ends meet. The money to make any wastewater upgrades must come from somewhere, and the Congress needs to step up to plate.

The funding levels in this bill reflect almost a half billion dollars in cuts to the Clean Water State Revolving Fund over the past two years. My state of New Jersey will have lost $20 million alone.

EPA's state and tribal assistance grant program is also slashed by almost half a billion dollars.

Enacting these cuts and ignoring these needs undermines our ability to treat sewage, particularly during wet weather events.

It is important that we have uniform clean water regulations across our nation. I do believe that our communities need a thoughtful blending policy.

However, the November 2003 policy the EPA has proposed is not the right one at this time. If the Stupak Amendment comes to a vote, I will support it.

The EPA can do better, and the Congress should demand better.

But all sides need to be pragmatic. It is imperative that common ground can be found to develop a solution we can all live with.

A limiting amendment which stops work on the blending issue will not benefit our environment and it will not benefit the public health.

It will certainly not benefit communities and public water utilities trying to do the best they can with the limited resources they have available.

I would like to thank my friend from Michigan for bringing this amendment to the House floor. He is truly a champion in our quest for clean water and should be commended for his work protecting the Great Lakes.

I would also like to thank my Chairman of the Water Resources Subcommittee, Mr. DUNCAN. He is also a champion for clean water, and a leader in our quest to provide assistance to local communities for their treatment systems.

Mr. OBERSTAR. Mr. Chairman, I rise in support of the amendment.

The amendment offered by my colleague from Michigan would prohibit the Environmental Protection Agency from spending any of the funds provided by this bill to finalize any new policy related to sewage blending.

Mr. Chairman, when EPA proposed to issue a new policy document on sewage blending, I was concerned that it could cause an increase in the frequency of blending by those communities that current use the practice, and an increase in the number of communities that use the practice. That is why I thought the policy was flawed. I do not believe that there currently is enough information available to EPA and state permit writers to know that any increase in the use of blending is protective of human health and the environment. That is why I believe that issuing a policy that could increase the use of blending is wrong.

Sewage blending is the practice of taking partially treated wastewater, mixing it with fully treated wastewater, and then relying on the dilution to meet discharge limits. I do not believe that sewage blending is what was intended when the secondary treatment requirements for publicly owned treatment works were put in place by Congress in 1972.

Congress intended that all domestic sewage receive a minimum of secondary treatment, and greater levels of treatment where water quality demanded it. Since sewage blending is a process that is used only during periods of high flows, then the question presents itself as to whether blending complies with the secondary treatment requirements. Even the proponents of blending acknowledge that blending is used only in limited high flow circumstances—at all other times the sewage otherwise receives full secondary treatment

The current, acknowledged limitations on the use of blending lead to the question—if blending constitutes secondary treatment, then why is it not acceptable all the time, or if it does not constitute secondary treatment, why is it allowed at all?

Recently, the EPA Assistant Administrator for Water acknowledged, ''the heart and soul of the Clean Water Act, is that dilution is not the solution to pollution, that you need to treat the sewage. Blending isn't the solution. It's a short-term fix. [EPA] want[s] to make sure that it only occurs in the very limited, narrow circumstances and that it meets all requirements in their Clean Water Act permit, and that water quality standards downstream are also maintained.''

Mr. Chairman, increasing the use of blending is not an acceptable long-term solution to meeting secondary treatment requirements. I support the amendment to bring the expanded use of blending policy to a halt.

POINT OF ORDER

Mr. TAYLOR of North Carolina. Mr. Chairman, I raise a point of order. We have an agreement. I do not think we can strike the last word when we have a time agreement.

Would the chairman rule on that and inform me?

The Acting CHAIRMAN. Under the order of the House of earlier today, only the chairman and ranking minority member of the Committee on Appropriations and the Subcommittee on Interior, Environment, and Related Agencies may offer a pro forma amendment to a pending amendment.

The question is on the amendment offered by the gentleman from Michigan (Mr. STUPAK).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. TIAHRT

Mr. TIAHRT. 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. TIAHRT:

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds made available in this Act may be used to promulgate regulations without outside auditing to determine the authenticity of the scientific methods used to develop such regulations.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve a point of order against the amendment.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Kansas (Mr. TIAHRT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Kansas (Mr. TIAHRT).

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

Last year our trade deficit surpassed $670 billion. Our Federal budget deficit was more than $300 billion, and we saw too many high-quality, good-paying jobs go overseas. It has become more and more difficult to keep and create jobs and small businesses here in America. And when we look around at what the world is doing, unless we change the environment here in America we are going to become a third-rate economy.

Over the last generation, starting in the 1960s, Congress has created barriers to keeping and creating jobs. We must remove those barriers.

Mr. Chairman, one of those barriers created by Congress is bureaucratic red tape. Others are rising health care costs, education policy, research and development policy, energy policy, unenforceable trade policy, tax policy, and lawsuit abuse. My amendment goes to the heart of the problem centered around the unnecessary bureaucratic red tape.

My amendment is designed to require an outside audit to determine that science is used to develop regulations at the EPA that are unbiased and well substantiated. At a minimum major rules by the EPA should go through a Science Advisory Board and rules should then be audited by a neutral third party to ensure that our environmental regulations are based on scientific facts and not emotional theory.

There are reporting rules promulgated by the EPA that do nothing to protect the environment or the health and well-being of the citizens but cost American businesses hundreds of millions of dollars and thousands of jobs.

One example of an unnecessary burden to the American small businesses is the EPA's toxic release inventory lead rule. The rule requires that businesses report annually on how much lead is used. Not how much lead is emitted into the atmosphere, but how much lead the business uses. In June, 2002, a small business owner from Baltimore, Maryland testified before the Regulatory Reform and Oversight Subcommittee of the Committee on Small Business on how this particular EPA reporting rule causes harm to her business. We can see how ridiculous and wasteful this EPA rule is to our economy without making our air any cleaner. Nancy Klinefelter is president of Baltimore Glassware Decorators. Her small business specializes in printing

small quantities of custom glass and ceramic ware for special occasions. Some of Nancy's work can even be found in the House gift shop and some is sold in the EPA's gift shop. When they print mugs or glasses for customers, they sometimes use lead-bearing colors on the outside surface. These colors are expensive, so they use a minimum amount of paint, just that which is needed to color the surfaces and they try to reduce waste. And the finishing process ensures that none of the lead leaches out. So their products are safe for anyone who uses them.

But because of the EPA's Toxics Release Inventory lead rule, Nancy's business is forced to compile daily records on how much color is used for the mugs because the color contains a very small amount of lead. Each year her small business has to report to the EPA how much lead has been used. It costs her about $7,000 annually and across the Nation about $70 million every year. And what do the Americans get for the millions that are spent? Cleaner air? No. Less lead being used? No. Less exposure to lead by children? No. The answer is none of these. But all the American people get from these thousands of reports are estimates on how much lead is being consumed, but our air is not any cleaner.

Mr. Chairman, with the hopes of working during the conference committee report, I intend to withdraw this amendment because I know it is subject to a point of order. I hope that we can work together with the gentleman from North Carolina (Chairman Taylor) in the conference report to try to remove some of these unnecessary regulations.

So, in conclusion, we must not move forward with our government to implement regulatory burdens like this on the American public because it drives jobs overseas, it increases the trade deficit, it reduces the Federal revenue, and it moves us toward a third-rate economy.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

AMENDMENT NO. 9 OFFERED BY MR. POMBO

Mr. POMBO. 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. POMBO:

At the end of the bill (before the short title) add the following new section:

SEC. ____. The funds appropriated in this Act under the following headings are available only to the extent provided for in authorizing legislation enacted before the date of the enactment of this Act or on or after such date:

(1) ''Bureau of Land Management—Range Improvements''.

(2) ''United States Fish and Wildlife Service—Resource Management''.

(3) ''United States Fish and Wildlife Service—Cooperative Endangered Species Conservation Fund''.

(4) ''United States Fish and Wildlife Service—Neotropical Migratory Bird Conservation''.

(5) ''United States Fish and Wildlife Service—Multinational Species Conservation Fund''.

(6) ''National Park Service—Historic Preservation Fund''.

(7) ''United States Geological Survey—Surveys, Investigations, and Research''.

(8) ''Bureau of Indian Affairs—Indian Land and Water Claim Settlements and Miscellaneous Payments to Indians''.

(9) ''Indian Health Service—Indian Health Services''.

(10) ''Indian Health Service—Indian Health Facilities''.

(11) ''Executive Office of the President—Council on Environmental Quality and Office of Environmental Quality''.

Mr. DICKS. Mr. Chairman, I reserve a point of order against the amendment.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from California (Mr. POMBO) and a Member opposed each will control 5 minutes.

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

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

Appropriations without authorizations or that exceed authorized levels violate House rule XXI, clause 2. This amendment enforces this rule by not allowing moneys to be spent for 10 specified programs within the Committee on Resources' sole jurisdiction which are not authorized to be funded in fiscal year 2006 until the Committee on Resources authorizes them. The money remains in the bill but cannot be obligated by the agencies until the authorizing committee authorizes them to do so.

Because the Interior appropriations bill often combines both authorized and unauthorized programs in a single number, such as funding for survey activities of the U.S. Geological Survey, the amendment assures that these programs which are authorized by fiscal year 2006, their funding cannot continue.

For those programs which are authorized but the amount appropriated exceeds the authorized level, such as in the case for the Council on Environmental Quality, then the amendment restricts the funding to the authorized level.

The purpose of this amendment is to give us the ability to go back and authorize a number of these programs that have not been authorized for years and in some cases in excess of a dozen years. One of the major problems that we have is the Committee on Appropriations gets in the position of having to continue to appropriate money on these unauthorized programs because they are important programs. But in this case what we are talking about is $5.3 billion that is being appropriated. So this is a fiscal issue.

I believe that the taxpayer demands that we do our job in authorizing these programs and make sure that the public is getting their money's worth out of these different programs. Currently, I do not believe that is the case. And it gives us the ability to go back and authorize those programs.

I believe this is something that is extremely important. The gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Washington (Mr. DICKS) have worked with us on a number of different things that are in this bill over the past year. But when it comes to some of these major programs that we have not been able to get an authorization on, I believe the time is now for us to move forward and begin to fence off those moneys until we can get an authorization done.

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

POINT OF ORDER

Mr. DICKS. Mr. Chairman, I raise a point of order against the amendment. I do it with great respect for the chairman, but I just worry about what the consequences of his amendment would be to this bill.

Therefore, Mr. Chairman, I raise a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriation bill and therefore violates clause 2 of rule XXI.

The rule states in pertinent part: ''An amendment to a general appropriation bill shall not be in order if changing existing law.''

The Acting CHAIRMAN (Mr. HASTINGS of Washington). Does any Member wish to be heard on the point of order?

Mr. POMBO. Mr. Chairman, I realize that the gentleman is correct when he talks about authorizing an appropriations bill and the effect that my amendment would have. But I would urge the Chair to rule the amendment in order because what I am trying to do is strip out and put fencing around appropriations for unauthorized programs. It seems kind of ironic that my amendment that goes after unauthorized programs would be ruled out of order for the very reason that I have been going after those programs.

I urge the chairman to rule the amendment in order.

The Acting CHAIRMAN. If no other Member wishes to be heard, the Chair is prepared to rule.

The Chair finds that this amendment requires new duties. The amendment therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained, and the amendment is not in order.

□ 1900

AMENDMENT OFFERED BY MS. SOLIS

Ms. SOLIS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN (Mr. HASTINGS of Washington). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. SOLIS:

Add at the end of the bill (preceding the short title) the following:

SEC. 4____. None of the funds made available in this Act may be used by the Administrator of the Environmental Protection Agency—

(1) to accept, consider, or rely on third-party intentional dosing human studies for pesticides; or

(2) to conduct intentional dosing human studies for pesticides.

The Acting CHAIRMAN. Pursuant to the order of the House today, the gentlewoman from California (Ms. SOLIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Chairman, I yield myself such time as I may consume.

This amendment would ensure that the Environmental Protection Agency could not use funds in this legislation to accept, consider, or rely on studies from outside parties that intentionally expose human beings to pesticides. It would also ensure that the EPA could not spend any funds conducting its own studies which intentionally expose humans to pesticides.

According to EPA Administrator Stephen Johnson back in 2001, EPA ''believes that we have a more than sufficient database, through use of animal studies, to make licensing decisions that meet the standard, to protect the health of the public, without using human studies.''

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentlewoman yield?

Ms. SOLIS. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, if we withdraw any objection to this amendment, is the gentlewoman envisioning a rollcall vote or just a simple voice vote?

Ms. SOLIS. Mr. Chairman, no rollcall vote.

Mr. TAYLOR of North Carolina. Mr. Chairman, I withdraw any objection to this amendment.

Ms. SOLIS. Mr. Chairman, I yield myself such time as I may consume, and I thank the gentleman from North Carolina.

Mr. Chairman, I will submit the remainder of my statement for the RECORD, and I would ask that Members of the House approve this amendment. It is long overdue. I am very grateful to accept support from the other side of the aisle.

Despite this statement, the EPA can devise and conduct studies where humans—children and adults—are exposed to pesticides.

Current practices also allow the EPA to accept studies from the pesticide industry and other outside sources so these studies can be used to help develop regulations or approve pesticides.

Right now, the United States Environmental Protection Agency—the agency in charge of protecting public health from environmental toxins—is encouraging industry to use human beings as guinea pigs.

What may be the greatest offense yet, is that the EPA is conducting and engaging in these studies with no binding safeguards to make sure these tests protect public health.

The EPA has chosen to go against the recommendation of the National Academy of Sciences and against the wishes of its own Science Advisory Board and Science Advisory panel.

Not only are there no binding safeguards for EPA conducted studies, but many of the outside studies which the EPA accepts fail to meet minimum international standards established in the Nuremberg Code and in the Helsinki Declaration of the World Medical Association.

This behavior is deplorable, unethical, and wrong.

Our amendment is critical because, in the absence of binding standards at EPA, the pesticides industry has increased its use of human testing studies and putting more humans at risk for what are frequently statistically invalid studies.

The trend of using humans—both children and adults—as guinea pigs is a trend that needs to stop.

The EPA needs to have binding safeguards in place, and we need to have information about how a better understanding of how dangerous and toxic these pesticides are for our children.

Without these safeguards the EPA should not be conducting tests which dangerously expose humans to pesticides nor should it be developing policy based on third party studies which fail to meet even basic internationally accepted standards.

My colleagues, the Solis-Bishop amendment is supported by environmental and diverse religious organizations and among more than 80,000 others who have written to me saying they oppose the CHEERS study and support a moratorium on this type of testing.

I urge you to support our amendment and prevent the unregulated and unethical testing of pesticides on humans.

Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. BISHOP), the cosponsor of this amendment.

Mr. BISHOP of New York. Mr. Chairman, I want to thank the gentlewoman from California for her leadership on this issue and for yielding me this time, and I want to thank the chairman for accepting our amendment.

I have a statement that I will submit for the RECORD.

Mr. Chairman, I thank the gentlewoman from California (Ms. SOLIS), for yielding and introducing this amendment, which I'm proud to cosponsor.

Mr. Chairman, how do you make a bad idea worse? If you're EPA, offer families $970 to videotape their children reacting to bug sprays, carpet cleaners, and other household pesticides.

Then, invite the American Chemistry Council as a partner in this study, knowing that in exchange for $2 million paid toward the study, it wants looser regulations for the pesticide industry, which in turn wants to use humans instead of animals so it can justify relaxed exposure limits.

EPA's study is as poorly conceived as its acronym: CHEERS—which stands for the Children's Health Environmental Exposure Research Study. It's a trifecta of unethical, immoral, and unscientific research.

It violates the post World War II ''Nuremburg Code,'' which outlawed medical testing, including pesticide testing on people.

It advances private rather than medical interests, putting industry ahead of public health.

And despite EPA's own Science Advisory Board and Scientific Advisory Panels recommendening strict safeguards for human testing, EPA failed to adopt them.

Mr. Chairman, we all want to understand how common chemicals like those found under the kitchen sink can hurt children, the elderly and the most vulnerable to poisoning. But the way to collect that information should not involve hurting the very people we want to protect.

The government should not be asking families to turn their babies into lab rats. We should be protecting children, not exposing them to pesticides.

Although we passed this amendment by unanimous consent two years ago, EPA resurrected the study when the fiscal year expired in October.

We need to pass the Solis-Bishop amendment to ensure EPA's research is based on sound science with the highest ethical standards.

Our amendment is supported by a broad coalition of environmental advocates, including the Alliance for Human Research Protection in my home state of New York.

I strongly encourage my colleagues to support this amendment, again thank the gentlewoman from California for her excellent work.

Ms. SOLIS. 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. SOLIS).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. GARRETT OF NEW JERSEY

Mr. GARRETT of New Jersey. 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 Mr. GARRETT of New Jersey:

At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available in this Act may be used to send or otherwise pay for the attendance of more than 50 Federal employees at any single conference occurring outside the United States.

The Acting CHAIRMAN. Pursuant to the order of the House today, the gentleman from New Jersey (Mr. GARRETT) and a Member opposed each will control 5 minutes.

The CHAIR recognizes the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the one question that I get when I go back to my district is, what is it that the Federal Government and Congress spend all their money on, and some of the things that we hear about sometimes is excess of spending in various areas.

One of the things that raises the ire of a lot of people is when they hear about trips by Members of the executive branch and others going overseas for maybe notable and worthwhile causes, but in excess of the number of people that we really need to send there. We have heard examples in past Congresses, and we have raised this amendment in past Congresses when we heard about 100, 150, 200 members of the executive branch going over for various causes.

We present an answer to this problem by saying that whenever an agency decides to send someone overseas for a trip, we should limit the number of Federal employees that go. My amendment will do that very simply. It will limit the number of Federal employees that are sent to international conferences funded under this bill to 50.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. GARRETT of New Jersey. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I commend the gentleman for his concern about the excessive foreign travel. This subcommittee has conducted extensive oversight using the Inspector General and the Government Accountability Office on the use of foreign travel on large conferences. I accept the gentleman's amendment.

Mr. GARRETT of New Jersey. Mr. Chairman, I thank the chairman for accepting the amendment.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. GARRETT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. COSTA

Mr. COSTA. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. COSTA:

At the end of the bill (before the short title), add the following new section:

SEC. 4___. None of the funds made available in this Act for the Department of the Interior may be used to enter into or renew any concession contract except a concession contract that includes a provision that requires that merchandise for sale at units of the National Park System be made in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Commonwealth of the Northern Mariana Islands.

The Acting CHAIRMAN. Pursuant to the order of the House today, the gentleman from California (Mr. COSTA) and a Member opposed each will control 5 minutes.

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

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

In 2004, approximately 263 million Americans and people throughout the world visited our Nation's 388 national parks, memorials, and national monuments. This summer, we know, as we approach the Memorial Day weekend, that additional hundreds of millions of Americans and other visitors from throughout the world will continue to visit our national parks.

Mr. Chairman, I think that when American families and those from throughout the world visit our wonderful treasures across the United States, that it would be nice if the souvenirs that they take home with them were actually made in our country. I believe that it is patriotic that our souvenirs that we bring home from our national treasures, in fact, be made by American workers.

The amendment before us would require that all souvenir products sold in America's national park system prospectively be made in America. Therefore, I ask my colleagues to support this amendment.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, we have no objection at this time to this amendment.

Mr. COSTA. Mr. Chairman, I ask that my colleagues accept the amendment.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. COSTA).

The amendment was agreed to.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my understanding is that there are no other amendments left to the bill, and I simply want to say that I think the chairman of the subcommittee has been very fair and balanced in the way he has approached the bill. I think the bill is not fair and balanced, not because of anything the gentleman from North Carolina (Mr. TAYLOR) did, but simply because it could not be under the budget adopted by the majority party 2 weeks ago.

How any Member votes on this bill is, in my view, up to that Member. I am not going to be asking any Member to vote any way on any appropriation bill, but I will be voting ''no,'' and I would like to briefly explain why.

I am simply not going to vote to gut the main program that we use to help local communities to deal with a $300 billion-plus backlog of decrepit sewer and water systems. I am not going to vote to leave 200 of our 544 wildlife refuges without a single staff person. I am not going to vote to cripple EPA enforcement programs to the tune of $400 million.

This bill does all of those things, not because the gentleman from North Carolina (Mr. TAYLOR) wanted to, but simply because of what the majority leader said 2 weeks ago when he said, ''This is the budget the American people voted for when they voted for a Republican House, a Republican Senate, and a Republican White House.'' I do not agree with Mr. DELAY on much, but I agree with him in that assessment.

So I would simply say, if Members are comfortable with implementing that kind of a budget that puts $140,000 tax cuts for millionaires ahead of protecting American children from dirty drinking water, then they ought to feel comfortable voting ''yes.'' I am not, and I will vote ''no.''

SEQUENTIAL VOTES POSTPONED IN THE 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 offered by Mr. RAHALL of West Virginia;

Amendment offered by Mr. HEFLEY of Colorado.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY RAHALL

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from West Virginia (Mr. RAHALL) on which further proceedings were postponed and on which the noes 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 249, noes 159, not voting 25, as follows:

[Roll No. 196]

AYES—249

Ackerman	Cardin	Doggett
Aderholt	Carnahan	Doyle
Allen	Carson	Dreier
Andrews	Case	Edwards
Baca	Castle	Ehlers
Baird	Chabot	Emanuel
Baldwin	Cleaver	Engel
Bartlett (MD)	Clyburn	English (PA)
Barton (TX)	Conyers	Eshoo
Bass	Cooper	Etheridge
Bean	Costello	Evans
Becerra	Cramer	Everett
Berkley	Crowley	Farr
Berman	Cuellar	Fattah
Berry	Cummings	Ferguson
Biggert	Cunningham	Filner
Bilirakis	Davis (AL)	Fitzpatrick (PA)
Bishop (GA)	Davis (CA)	Foley
Bishop (NY)	Davis (IL)	Forbes
Blumenauer	Davis (TN)	Ford
Bono	Davis, Jo Ann	Fossella
Boozman	Davis, Tom	Franks (AZ)
Boucher	Deal (GA)	Frelinghuysen
Bradley (NH)	DeFazio	Gallegly
Brady (PA)	DeGette	Gonzalez
Brown, Corrine	Delahunt	Goode
Burgess	DeLauro	Gordon
Butterfield	Dent	Green (WI)
Capito	Diaz-Balart, L.	Green, Al
Capps	Diaz-Balart, M.	Green, Gene
Capuano	Dicks	Grijalva

Gutierrez
Hall
Harris
Hastings (FL)
Hayworth
Herseth
Higgins
Hinchey
Hobson
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kirk
Kucinich
Kuhl (NY)
Langevin
Lantos
Larsen (WA)
Lee
Levin
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Maloney
Markey
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McDermott
McGovern
McHugh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Norwood
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Pitts
Platts
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Reynolds
Rogers (MI)
Ros-Lehtinen
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Woolsey
Wu
Wynn
Young (FL)

NOES—159

Abercrombie
Akin
Alexander
Bachus
Baker
Barrett (SC)
Beauprez
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boren
Boswell
Boustany
Boyd
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Cardoza
Carter
Chandler
Chocola
Coble
Cole (OK)
Conaway
Costa
Cox
Crenshaw
Cubin
Davis (FL)
Davis (KY)
DeLay
Dingell
Doolittle
Drake
Duncan
Emerson
Feeney
Flake
Fortenberry
Foxx
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goodlatte
Granger
Graves
Gutknecht
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hoekstra
Hulshof
Hunter
Inglis (SC)
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
King (IA)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Latham
Lewis (CA)
Lewis (KY)
Lungren, Daniel E.
Mack
Manzullo
Marshall
Matheson
McCrery
McHenry
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Musgrave
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Osborne
Otter
Oxley
Pearce
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Regula
Rehberg
Reichert
Renzi
Rogers (AL)
Rogers (KY)
Rohrabacher
Ross
Royce
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Walden (OR)
Walsh
Weldon (FL)
Westmoreland
Wicker
Wilson (SC)
Wolf

NOT VOTING—25

Barrow
Brown (OH)
Clay
Culberson
Frank (MA)
Gerlach
Harman
Hinojosa
Jackson-Lee (TX)
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Lynch
Marchant
Millender-McDonald
Moran (VA)
Paul
Poe
Radanovich
Shays
Strickland
Tancredo
Young (AK)

□ 1937

Messrs. BAKER, SCHWARZ of Michigan, CARDOZA, JENKINS and SULLIVAN changed their vote from ''aye'' to ''no.''

Mr. LoBIONDO, Mrs. MALONEY, and Messrs. CLEAVER, JOHNSON of Illinois, ORTIZ, Ms. CORRINE BROWN of Florida, Messrs. BACA, TURNER, BARTLETT of Maryland, FORBES, WAMP, BOOZMAN, HOBSON, Mrs. MILLER of Michigan, Mrs. MYRICK, Mr. BISHOP of Georgia and Mr. DICKS changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. BARROW. Mr. Chairman, on rollcall No. 196, had I been present, I would have voted ''aye.''

Mr. MORAN of Virginia. Mr. Chairman, on rollcall No. 196, I was delayed in traffic. Had I been present, I would have voted ''aye.''

Stated against:

Mr. HINOJOSA. Mr. Chairman, I regret that I was unavoidably detained. Had I been present, I would have voted ''no'' on rollcall No. 196.

AMENDMENT NO. 11 OFFERED BY MR. HEFLEY

The Acting CHAIRMAN (Mr. HASTINGS of Washington). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) on which further proceedings were postponed and on which the noes 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 90, noes 326, not voting 17, as follows:

[Roll No. 197]

AYES—90

Akin
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bean
Beauprez
Bilirakis
Blackburn
Brady (TX)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Cannon
Chabot
Chocola
Cubin
Davis, Jo Ann
Deal (GA)
Diaz-Balart, M.
Duncan
Everett
Feeney
Flake
Foley
Foxx
Franks (AZ)
Garrett (NJ)
Gibbons
Goodlatte
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hefley
Hensarling
Herger
Hoekstra
Hostettler
Inglis (SC)
Issa
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
Lewis (KY)
Linder
Mack
Manzullo
McCotter
McHenry
Miller (FL)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Norwood
Otter
Paul
Pence
Petri
Pitts
Poe
Price (GA)
Ramstad
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Stearns
Sullivan
Tanner
Taylor (MS)
Terry
Thornberry
Westmoreland
Wilson (SC)

NOES—326

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Barrow
Bass
Becerra
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Butterfield
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chandler
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Forbes
Ford
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gallegly
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Gordon
Granger
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Jackson (IL)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
Lee
Levin
Lewis (CA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lungren, Daniel E.
Lynch
Maloney
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver

Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Platts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Rahall
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherman
Sherwood
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stupak
Sweeney
Tauscher
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—17

Clay
Cox
Harman
Istook
Jackson-Lee (TX)
Jones (OH)
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Millender-McDonald
Radanovich
Shays
Strickland
Tancredo
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1946

So the amendment was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN (Mr. HASTINGS of Washington). The Clerk will read the last two lines of the bill.

The Clerk read as follows:

This Act may be cited as the ''Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006''.

Mr. TAYLOR of North Carolina. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BASS) having assumed the chair, Mr. HASTINGS of Washington, 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. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Pursuant to House Resolution 287, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were 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. OBEY

Mr. OBEY. Mr. Chairman, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. OBEY. Yes, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY of Wisconsin moves to recommit the bill, H.R. 2316, to the Committee on Appropriations to report the same promptly with an amendment to provide an additional $242,000,000 for the Clean Water State Revolving Fund and $110,000,000 for State and Tribal Assistance Grants.

The SPEAKER pro tempore. The gentleman from Wisconsin is recognized for 5 minutes in support of his motion to recommit.

Mr. OBEY. Mr. Speaker, I will take only 1 minute. The budget resolution passed earlier this year told the Congress to find a way to meet the targets in that resolution, even if we had to gut the Clean Water program and to cut the STAG grants.

What this motion says is that the committee ought to go back to the drawing board and find a way to meet these targets without cutting either the STAG grants or the Clean Water Revolving Fund. It would simply ask the committee to provide an additional $242 million to the Clean Water Revolving Fund and $110 million for State and Tribal Assistance Grants, returning both programs to last year's level.

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

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise in opposition to the motion to recommit, and I wish we did not have to have a rollcall vote.

This motion to recommit kills the bill by adding $352 million, and I oppose this motion.

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

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. OBEY. 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 the electronic vote on the question of final passage.

The vote was taken by electronic device, and there were—ayes 191, noes 228, not voting 14, as follows:

[Roll No. 198]

AYES—191

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
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
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
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
Moore (KS)
Moore (WI)
Moran (VA)
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
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

NOES—228

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
Capuano
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
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
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
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
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
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 (FL)

NOT VOTING—14

Clay
Harman
Jackson-Lee (TX)
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Millender-McDonald
Radanovich
Shays
Strickland
Tancredo
Young (AK)

□ 2008

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BASS). The question is on the passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 329, nays 89, not voting 15, as follows:

[Roll No. 199]

YEAS—329

Abercrombie
Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
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
Delahunt
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Latham
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Olver
Ortiz
Osborne
Otter
Oxley
Pastor
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Sabo
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stupak
Sullivan
Sweeney
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (NM)
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (FL)

NAYS—89

Ackerman
Allen
Baird
Baldwin
Becerra
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Brown (OH)
Capps
Cardin
Chandler
Conyers
Costello
Davis (IL)
DeGette
DeLauro
Dingell
Eshoo
Etheridge
Flake
Frank (MA)
Franks (AZ)
Grijalva
Gutierrez
Hastings (FL)
Hefley
Holt
Honda
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jones (NC)
Jones (OH)
Kind
Kucinich
Lantos
Lee
Lofgren, Zoe
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
Menendez
Michaud
Miller, George
Moore (WI)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Owens
Pallone
Pascrell
Paul
Payne
Pelosi
Rahall
Rohrabacher
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Solis
Stark
Stearns
Tanner
Tauscher
Taylor (MS)
Tierney
Udall (CO)
Van Hollen
Velázquez
Wasserman Schultz
Waters
Waxman
Wexler
Woolsey

NOT VOTING—15

Clay
Harman
Jackson-Lee (TX)
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Marchant
Millender-McDonald
Radanovich
Shays
Strickland
Tancredo
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 2018

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, Thursday, May 19, 2005 to vote on rollcall votes Nos. 190, 191, 192, 193, 194, 195, 196, 197, 198 and 199 due to family medical emergency.

Had I been present, I would have voted: ''no'' on rollcall vote No. 190 on calling the previous question on H. Res. 287—The rule providing for consideration of H.R. 2361—Department of the Interior, Environment, and Related Agencies Appropriations Act for Fiscal Year 2006; ''no'' on rollcall vote No. 191 on an amendment to H.R. 2361 to increase funding for Payments in Lieu of Taxes (PILT) by $4,800,000 and to reduce funding to the National Endowment for the Arts; ''no'' on rollcall vote No. 192 on amendments en bloc to H.R. 2361 to insert ''oil'' after ''offshore'' on page 53, line 12 strike ''and natural gas'' on page 53, line 20 and to strike ''and natural gas'' on page 54 line 3; ''no'' on rollcall vote No. 193 on an amendment to H.R. 2361 to reduce funding for the Environmental Protection Agency—Science and Technology by $130 million and to increase funding for the Environmental Protection Agency—Hazardous Substance Superfund by $130 million; ''yea'' on rollcall vote No. 194 on an amendment to H.R. 2361 to increase funding in the Clean Water State Revolving Fund by $100 million; ''no'' on

rollcall vote No. 195 on an amendment to H.R. 2361 to increase funding for Wildland Management by $27,500,000, to increase funding for hazardous fuels reduction activities and to reduce funding for the National Endowment for the Arts—Grants and Administration by $30 million; ''yea'' on rollcall vote No. 196 on an amendment to H.R. 2361 to prohibit the use of funds from being made available for the selling or slaughter of wild free-roaming horses and burros; ''no'' on rollcall vote No. 197 on an amendment to H.R. 2361 to reduce total appropriations in the bill by $261,591,250; ''yea'' on rollcall vote No. 198 on the motion to recommit H.R. 2361 to the Appropriations Subcommittee on Interior, Environment, and Related Agencies; and ''no'' on rollcall vote No. 199 on passage of H.R. 2361—Department of the Interior, Environment and Related Agencies Appropriations Act for Fiscal Year 2006.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 810

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that the name of the gentleman from California (Mr. CALVERT) be removed from a piece of legislation I have authored, H.R. 810.

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

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. HOYER. Mr. Speaker, I yield to the distinguished majority leader for the purposes of inquiring of the schedule for the coming week.

Mr. DELAY. Mr. Speaker, I appreciate the distinguished minority whip yielding to me.

The House will convene on Monday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to Members' offices by the end of the week. Any votes called on these measures will be rolled until 6:30 p.m.

On Tuesday and the balance of the week, the House will consider several bills under a rule: H.R. 810, the Stem Cell Research Enhancement Act of 2005; H.R. 2419, the Energy and Water Development Appropriations Act for Fiscal Year 2006; and H.R. 1815, the National Defense Authorization Act For Fiscal Year 2006.

In addition, Mr. Speaker, we plan to consider the Military Quality of Life Appropriations Act for Fiscal Year 2006 sometime later in the week.

Mr. HOYER. I thank the leader for that information. If I could go through a couple of these bills. The defense authorization bill, Mr. Leader, do you expect at this point in time to have that on a particular day of the week? Do we know when that will be?

Mr. DELAY. While it is certainly subject to change, I would expect us to consider the stem cell bill on Tuesday, followed on Tuesday by the energy and water bill. Hopefully, we could finish that bill by Tuesday night and start the DOD authorization bill on Wednesday and Thursday, if necessary, and complete the week with the military quality of life appropriations bill.

Mr. HOYER. I thank the gentleman for that response. With respect to the defense authorization bill, can you tell us now what kind of a rule might be applicable to the consideration of that bill?

Mr. DELAY. I would anticipate the same types of amendments being allowed that has been sort of tradition around here on the DOD authorization bill. The Rules Committee did make an announcement tonight about filing amendments in a timely fashion. Most of the amendments would be considered by the Rules Committee, but obviously it is too early to tell what the Rules Committee will finally do.

Mr. HOYER. I thank the gentleman for that information and would ask that certainly the substantive Democratic amendments be made in order. This, obviously, is a very important bill, a large sum of money, critically important at a time when we are confronting terrorists in Iraq and around the world and our men and women are in harm's way. All of us want to make sure that we have our ideas on how we can best strengthen our efforts in that bill. So to the extent that the leader can prevail upon the Rules Committee to allow such amendments as Democratic Members and, for that matter, Republican Members want to offer, I think that would be in the best interests of full consideration.

Mr. Leader, the stem cell research legislation you indicate will be on Tuesday. It is my understanding that that bill will be brought to the floor and that it will not be subject to amendment; it will be considered as reported out of committee. Is that accurate?

Mr. DELAY. We are working with your side on a unanimous-consent request to bring the bill up even without a rule. Hopefully, we can agree to a lengthy debate. This issue is so important for an up-and-down vote. Hopefully, we could have a full and open debate on this very important issue. And it will be hopefully done under a unanimous-consent request that will be worked out with your side, probably on Monday.

Mr. HOYER. I thank the leader. I know that our leader and your office are working on that unanimous consent and the parameters of the consideration of, as you point out, a very, very important bill. There are obviously different points of view on the legislation.

I know we are going to be meeting Monday night and going to come in early Tuesday. Would you have a thought as to when, because of the importance of this bill, our Members want to be sure that they are here, as I am sure yours do as well, what time of day you would expect to be considering that piece of legislation?

Mr. DELAY. In working with the minority leader's office and your office, there have been requests to accommodate some Members and start this debate early in the afternoon instead of early in the morning. I would, along with the unanimous-consent request, anticipate us working out an agreeable time, and I would expect after discussions already being held that we would anticipate the debate to start on that bill somewhere early in the afternoon and running for the length of time agreed to by both sides.

Mr. HOYER. I thank the leader for that information and appreciate his working with Leader PELOSI in determining that, because this is important. I think all Members will want to make sure that that time frame in which it will be considered, they will be available to be on the floor or be watching the floor debate with the ability to come to the floor to offer their thoughts. I thank the gentleman for that information.

Mr. DELAY. If the gentleman will yield, I want to reemphasize, we are trying to work out with your side as lengthy a debate as necessary to have a full and important debate. Even though we would discourage any amendments to this very important issue, we would want to have opportunities for every Member to participate in the debate. So we would work out with your side enough time so that we can thoroughly debate this issue.

Mr. HOYER. I thank the leader for that observation. The happy circumstance is we both certainly agree on this procedure, that it needs to have a thorough airing and debate and discussion. There are strong views on either side of this issue and quite obviously the consequences of this bill are very substantial. Whether it passes or whether it fails, the consequences are substantial. So we appreciate the fact that there will be significant time to discuss and debate this issue.

Mr. Leader, I have two items left. The Head Start reauthorization has now, as you know, been marked up by the committee. I know it is not coming next week, and we will be out the week after that for the Memorial Day work period. Can you tell me when you might expect the Head Start reauthorization bill to come to the floor?

Mr. DELAY. We do have a very, very full schedule over the next few weeks. As the gentleman knows and most of the Members know, the Appropriations Committee is trying their best to get all the appropriations bills out of the House before the July 4 break, so there is very little time between now and the Fourth of July to do other bills. We are considering the Head Start bill, but we do not have any immediate plans to consider the Head Start bill reauthorization and hope that we can get to it as soon as possible.

Mr. HOYER. I thank the gentleman and would hope that we could try to

move that as quickly as possible. Obviously, people will want to be planning for the next school year and next Head Start year.

Lastly, Mr. Leader, the highway bill. As we know, the highway bill is now more than 2 years overdue in terms of reauthorization, has been sitting for some period of time. The Senate has now passed that bill. Can you tell us when we might appoint conferees for the highway conference?

Mr. DELAY. As the gentleman knows, this House passed the highway bill some weeks ago and the Senate just finished the highway bill in their Chamber. We will probably have to consider some type of short-term extension next week, hopefully an agreed-to extension bill. And if the Senate requests a conference next week, I believe that the Speaker will be prepared to appoint House conferees next week.

Mr. HOYER. I thank the leader for that observation and hopefully we can, in fact, move on that. We not only passed it last week but we passed it a number of times before that. Mr. Leader, I would simply observe on our side and, frankly, on your side that the Senate number is a number that I think our committee certainly and this House could well approve.

□ 2030

I know the President does not like that number, but very frankly, as the gentleman knows, our own committee almost unanimously on voice vote passed out an authorization figure at, I think, 375, so $80 billion more than the Senate-passed bill.

I would certainly hope that the Congress could exercise its will. The Senate was at 218. We were at 284. Now it is a little bit in between that. I would hope that we could move this conference as quickly as possible. It has been held up a long time and has a significant consequence for jobs, as the leader knows, significant consequence for contractors, States, municipalities, localities, and we have been a long time waiting for this passage that is now some 2 years late.

But I appreciate the leader's observation that we will appoint conferees next week, and hopefully perhaps the leader can help accelerate that conference so we can agree. And then the President, of course, will have to do what he thinks is best and make a determination, and then we might have a shocking event and he may veto a bill and send it back to us, and I am relatively confident we would work our will at that point in time.

I do not know whether the leader wants to make an observation.

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

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I would just say that the President has been criticized for not vetoing any bills over the last 4½ years, but it has become a tradition around here to include the President as we do legislation through the House and the Senate and therefore working out any of our differences so that he would not have to veto a bill, and I do not see that the highway bill is any different than anything else we have been doing for the last 4½ years. So he is obviously a major player in this process.

The House, as the gentleman says, has expressed itself at a number. We think the President will sign the bill. The Senate has chosen to do otherwise. Hopefully, we can work this out in the conference committee so that the President will not have to mar his record by vetoing a bill.

Mr. HOYER. Mr. Speaker, reclaiming my time, I recall that Democrats, when they were in charge, had a slightly different perspective, believing we were a co-equal branch of the government. We would adopt our policies based upon what we believed to be in the best interests of this country, and that the President, as a co-equal branch of the government, would make his determination, and if we disagreed we would override his veto. As a matter of fact, I voted to override a number of vetoes that the previous Democratic President disagreed with us on.

The gentleman is right. We do not seem to do that. We have a 4½-year unblemished record, as the leader points out, of not doing anything that this President did not want us to do.

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

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman's yielding to me.

I would just point out to the gentleman that in the good old days that he refers to, yes, this House had a great reputation for wanting to spend more money, and those days have changed in that the President is adamant about spending and spending the right amount of money to do the job and the House has concurred in that many times and have voted in the House. And it has been a pleasure to work with the President to hold down spending and make sure that every dollar is spent properly.

Mr. HOYER. Mr. Speaker, reclaiming my time, does the gentleman by any chance remember the ag bill?

Mr. DELAY. Which ag bill?

Mr. HOYER. The ag bill that was passed some years ago. The President was not too excited about that spending level, as I recall. He signed the bill, nevertheless.

Mr. DELAY. He signed the bill.

Mr. HOYER. Mr. Speaker, I have been here for some period of time, as the leader knows, and the only bill that Ronald Reagan vetoed that was overridden by the Congress was a bill in which he said we did not spend enough money in 1983. He vetoed it because we did not spend enough money.

ADJOURNMENT TO MONDAY, MAY 23, 2005

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning hour debate.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

CONTINUATION OF NATIONAL EMERGENCY PROTECTING DEVELOPMENT FUND FOR IRAQ—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–28)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the Federal Register for publication. This notice states that the national emergency declared in Executive Order 13303 of May 22, 2003, as expended in scope by Executive Order 13315 of August 28, 2003, modified in Executive Order 13350 of July 29, 2004, and further modified in Executive Order 13364 of November 29, 2004, is to continue in effect beyond May 22, 2005. The most recent notice continuing this emergency was published in the Federal Register on May 21, 2004 (60 FR 29409).

The threats of attachment or other judicial process against (i) the Development Fund for Iraq, (ii) Iraqi petroleum and petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale or marketing thereof, or (iii) any accounts, assets, investments, or any other property of any kind owned by, belonging to, or held

by, on behalf of, or otherwise for the Central Bank of Iraq create obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq. Accordingly, these obstacles continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency protecting the Development Fund for Iraq, certain other property in which Iraq has an interest, and the Central Bank of Iraq, and to maintain in force the sanctions to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, *May 19, 2005.*

2005 COMPREHENSIVE REPORT ON U.S. TRADE AND INVESTMENT POLICY TOWARD SUB-SAHARAN AFRICA AND IMPLEMENTATION OF AFRICAN GROWTH AND OPPORTUNITY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–29)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

Consistent with title I of the Trade and Development Act of 2000, I am providing a report prepared by my Administration, the ''2005 Comprehensive Report on U.S. Trade and Investment Policy Towards Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act.''

GEORGE W. BUSH.
THE WHITE HOUSE, *May 19, 2005.*

CAFTA

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

Mr. BLUMENAUER. Mr. Speaker, today most recognize we are part of a global economy, probably no more so than in my home State of Oregon. Unfortunately, the Central American Free Trade Agreement, CAFTA, is not the step forward that new trade agreements should represent.

For me it is clear that CAFTA does not include adequate environmental and labor standards. It is time to put the dispute resolution process for labor on the same solid footing as we do for commercial issues. Most acknowledge that CAFTA countries lack the financial resources and technical expertise to enforce good labor and environmental practices, but we are not providing funding that could help overcome these obstacles.

Additionally, CAFTA would seriously harm these countries that rely heavily on their agricultural sectors. Our egregious farm bill has locked us into subsidies that do not promote free trade and have already caused much harm to other countries' farmers. We need to pay attention to the hard lessons NAFTA imposed on struggling Mexican farmers.

Couple these issues with our reluctance to help American workers hammered by trade and technological change, and CAFTA is not an agreement that I can support in its current form.

SAVE FILIBUSTER

(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, Republicans continue to abuse this body with their blatant disregard for the rules. They are clearly manufacturing a crisis about the judicial nomination process, saying it is in trouble. They would have us believe that none of Bush's nominees were being confirmed.

But that just is not true. Let us remember that 95 percent of the Bush nominees have been approved, in contrast to 35 percent of the Clinton nominations. So instead of following history, they figure altering the Senate rules in their favor is the ultimate solution so that they can force ten nominees through the system.

Republican leaders in Washington are absolutely out of control. They are so afraid of our democracy failing their interests that they must continue to bully in order to get their way. The American people do not want a Congress controlled by bullies. Bullies who are willing to sacrifice a 200-year-old democratic process that has withstood such debates as the 24-hour filibusters of the Civil Rights Act in 1960s.

This abuse of power must end.

SPECIAL ORDERS

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

CAFTA AND OUR TRADE DEFICIT

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

Mr. DEFAZIO. Mr. Speaker, it has been nearly a year since the President signed the secretly negotiated CAFTA agreement and has begun the process to bring it forward to the House for an up-or-down vote. No amendments allowed. It is a perfect agreement, of course.

It is only perfect in that it mirrors all of our most recent failed trade agreements, such as its predecessor, NAFTA.

Some would say this is about helping the American economy, putting Americans to work, to help our exporters. That is what they said about NAFTA. And it turned out that the people of Mexico, the aggregate buying power of everybody in Mexico who spent every peso on American goods was slightly less than the State of New Jersey. It was never about the purchasing power of the people of Mexico and the idea that somehow they were going to buy American goods and put Americans to work here at home. It was always about United States capital, multinational corporations, chasing cheaper labor into Mexico and now further into Latin America; chasing lack of environmental standards and enforcement into Mexico, particularly the maquiladora area, which is a total environmental nightmare, further into Latin America; in chase of the lowest standards, the lowest common denominator, the most abused labor.

And that is what CAFTA is all about. It mirrors the NAFTA agreement. Like the NAFTA agreement, it will deliver the same thing. They told us we would gain 140,000 jobs with NAFTA. Well, we lost close to half a million jobs because of NAFTA. CAFTA will be the same.

When we are doing something that is failing the Nation and the Nation's workers and driving down wages here at home and trying to pull down our standards of consumer protection, environmental protection, labor standards, then maybe it is time to think about doing something different, and perhaps the House of Representatives is on the verge of doing that. Perhaps they are beginning to listen to the large majority of the American people. We are going to run a trade deficit this year of $2 billion a day.

□ 2045

Every billion dollars represents tens of thousands of lost jobs, the export of our industrial base, and, now, the export of our knowledge base.

We cannot continue these same failed policies as the President would have us do. I have heard that they have begun the purchasing phase of the CAFTA agreement.

Now, most Americans would wonder, what is the purchasing phase? Well, they have tried the strong-arm phase for the last year. They still do not have enough votes to jam another failed trade agreement through the United States House of Representatives. So I am told by friends on the other side of the aisle that they are about to begin the purchasing phase.

The White House is open for business. What do you need? How much does it cost? What can we do for you? It is not any argument that this is somehow going to deal with our trade deficit, help raise wages here at home, help provide jobs here at home; it is all about what deal can we cut for you so these same multinational corporations can continue to move jobs offshore, and, in this case, a little closer to

home. Perhaps they could avoid some of the transport costs from China or India where they have sent many of our other jobs, or Vietnam, and they can find almost as exploitable and cheap labor in Central America.

The combined buying power of these five nations is less than four days' purchasing power of the United States of America. If every person in these affected nations spent every cent they earned in the next year, it would be totally insignificant to the American economy; and, obviously, they are not going to do that. So it is very much the same as NAFTA: it is to move our plants, our equipment, some workers have even been made to package up their machines and train their replacements in the case of NAFTA, and they will be doing the same thing under CAFTA.

Mr. Speaker, it is time for a major change in policy. It is time for a policy that brings jobs home to America, that puts people at work here in America, that helps maintain wages in our country, and helps bring people overseas up to our standards instead of trying to drag the American people down to the lowest common denominator.

I hope that Members, particularly on the other side of the aisle, will not be bought by the White House in this debate and they will vote in the interests of the people who sent them here to Washington, DC.

A TRIBUTE TO TSCL VICE CHAIR DOTTIE HOLMES

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

Mr. GUTKNECHT. Mr. Speaker, I rise to pay tribute to a very, very special lady tonight. Dorothy ''Dottie'' Holmes served in the United States Air Force from 1949 to 1979. She is the first female Chief Master Sergeant and first woman to retire with 30 years of continuous service in the United States Air Force. She received 14 different awards and decorations during her career, the highest being the Legion of Merit Award.

Dottie Holmes was recalled to active duty twice to serve on the Air Force Chief of Staff Advisory Council For Retiree Affairs. She currently serves as a trustee on the TREA Senior Citizens League Board, a position that she has held since 2001. She previously served as a trustee on TSCL from 1995 to 1996.

Dottie Holmes is a life member of the Retired Enlisted Association. She served as the National President, the only woman to do so. She was a National first Vice President, and the National second Vice President of that organization as well. She actively served on the TREA Convention, Finance, Planning, Membership, Bylaws, and Rules Committees during the 1990s. She also served as president, Vice President, and Secretary of Chapter 1 Building Board Association.

She has been active in community affairs. Dottie Holmes served as a Pikes Peak Regional USO council member. She served as a Colorado State Field Representative For Women in Military Service, a part of their Memorial Foundation. She served as a city and county election judge, a USAFA Special Olympics volunteer. She also served at Peterson Air Force Base as a staff judge advocate volunteer. She currently serves as President of the Women in the Air Force Association.

She is considered an authority, and let me say a real authority, on the Air Force Academy. For many of the years that she served in the Air Force, she served as sort of the den mother to an awful lot of those cadets who went on to become officers in the United States Air Force.

The management skills of Dottie that she acquired from service in the Air Force and in her community service were enhanced by her college studies and management. At TREA Senior Citizens League, she has served as Vice President of the Board of Trustees for the past several years. She has demonstrated outstanding leadership in helping to oversee the Board's rise to prominence as a really accredited and acclaimed seniors' group.

In numerous meetings with Members of Congress, vice-chair Dottie Holmes demonstrated strength and determination in representing their position on important issues affecting seniors around the United States. She persuaded many legislators to send articles to her to appear in their newsletter, and she has just been an amazing and powerful force for issues that seniors care about. Dottie Holmes contributed greatly to the seniors of America with her work on that board. She has done the country and her Air Force service proud.

From the very first day that I met Dottie Holmes, it was apparent that she was an exceptional lady. It has been a personal pleasure of mine to work with her during the past several years on behalf of seniors' issues, especially on behalf of her interest in making affordable drugs more available to seniors here in the United States. She championed the cause of safer and less expensive drugs when she spoke on a panel at a town hall meeting we held last year in Denver. Her convincing voice for seniors will be sorely missed here in Washington when she retires from the Board of Trustees.

I want to say a very special and personal thank you to Dottie Holmes for the example that she has set and for her lifetime of service.

CELEBRATING THE JET PROPULSION LABORATORY

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

Mr. SCHIFF. Mr. Speaker, during the past half century, from America's first satellite, the grapefruit-sized Explorer I, to the International Space Station now being built 200 miles above us, human beings have begun to learn how to operate in the harsh environs of space.

America's space program operates on dual tracks. On the one hand, we have stressed human space flight, an inspiring, but dangerous undertaking. With the exception of the Apollo lunar landing missions, humans have not ventured beyond the low-earth orbit. The other track that we have followed is the robotic exploration of our solar system, using spacecraft that are more impervious to the harsh conditions of space and unaffected by the enormous distances necessary to explore our planetary neighbors.

Our unmanned space probes, from the Ranger and Surveyor craft that paved the way for Apollo, to the Voyager spacecraft that explored the outer planets and are still continuing to send back data even as they leave the solar system, have increased our understanding of the universe beyond anything even contemplated half a century ago.

On Mars, we have witnessed dust storms on Olympus Mons, the largest mountain in the solar system. We have peered through Venus's clouds and its broiling surface. We have discovered new moons and ring systems around outer planets. As I speak, a small spacecraft bearing dust from a comet is zooming back towards Earth and will parachute into Utah on January 15 of this coming year. A coffee table-sized probe named Deep Impact is scheduled to crash into another comet on July 4 of this year, a feat described to me recently by scientist Charles–Elachi as hitting a bullet with a bullet.

NASA's jet propulsion laboratory managed by the California Institute of Technology has designed, built, or controlled all of these programs. JPL has been a pioneer of our exploration of the solar system from the beginning of our space program. Earlier, I mentioned JPL's Explorer I, America's first satellite. At the time that it was launched, the United States had fallen behind the Soviet Union in the space race, and several other attempts at getting an American Sputnik into orbit had ended in fiery explosions on the launch pad.

Every American space probe that has visited another planet was managed by JPL. Through the wonders of technology, we have zoomed by Jupiter with Voyager, witnessed a Martian sunset with Viking, rolled across the surface of Mars with our rovers, and marveled at Saturn's rings with Cassini.

Whom do we have to thank for unlocking the wonders of the solar system, for providing brilliant, three-dimensional images of the Martian surface, for bringing us the multi-hued clouds of Jupiter and the cold beauty of Saturn? For this, we must thank the women and men of the Jet Propulsion

Laboratory in Pasadena, California. Under the leadership of Dr. Charles Elachi, the men and women of JPL work tirelessly to develop and manage America's robotic exploration of space.

Last January, even as we still mourned the loss of the crew of *Columbia* and the consequential interruption of the Shuttle program, JPL brought America back to Mars. The Spirit rover and its twin, Opportunity, landed on Mars to begin what was planned as a 3-month mission to evaluate whether conditions would at one time have been suitable for life on that planet.

Equipped with cameras, spectrometers and a grinder, America's robotic explorers have been hard at work for more than 16 months and are still going strong. Their discovery of evidence of past water on Mars last year was the top scientific ''Breakthrough of the Year,'' according to the journal ''Science.'' People around the world have been captivated by the stunning photographs of the Martian surface and the planet's ruddy sky. JPL's website is been visited more than 16 billion times; and, that is right, billion.

Last July, Cassini arrived at Saturn to begin a multiyear exploration of the planet and its myriad moons. Cassini carried with it a small European-built probe that landed on Saturn's largest moon, Titan, earlier this year.

JPL's spectacular missions have not only brought us incalculable scientific data, they have also sustained America's interest in space flight, especially the Mars missions. Now, as NASA prepares to accelerate the development of the Crew Exploration Vehicle and move forward with the return of humans to the moon, the space agency and Congress must take care to continue to provide adequate resources to support the robotic exploration of space that is JPL's specialty. In the short term, JPL is in danger of being a victim of its own success as the continued operation of Spirit and Opportunity have put pressure on the budget for the overall exploration of Mars.

Last year, the President announced a long-term goal of landing on Mars. This is an ambitious and worthy goal, but the technological and physiological challenges, not to mention the cost, means that it will be decades before an American walks on the Martian surface. In the interim, we have to keep interest in space high as we continue to explore the red planet and our other neighbors with relatively inexpensive probes that are better equipped than humans to survive the extreme hardship of long-duration space travel.

Mr. Speaker, as we continue to contemplate the future of our space program, I urge NASA and my colleagues not to deprive JPL one of the crown jewels of the American science and technology program of adequate resources. For thousands of years, people have gazed into the heaven and wondered what was up there. Thanks to NASA and the Jet Propulsion Laboratory, we are beginning to learn the answers to that age-old question.

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

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

ORDER OF BUSINESS

Mr. POE. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

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

There was no objection.

NATIONAL SECURITY AND PUBLIC SAFETY

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 discuss national security and public safety for our country and who is responsible for that duty.

Public safety, that is the first duty of government. Local security, local public safety goes to local cities and local law enforcement. National security, national public safety is the responsibility of the Federal Government.

But there is an unfunded public safety mandate that is affixiating an already struggling industry: our airline industry. The airline industry is an important sector of the American economy. With increasing fuel costs and taxes, the industry lost $9 billion last year alone and has lost $32 billion since September 11, 2001. Presently, taxes and fees comprise 26 percent of a $200 airline ticket. The flights seem to be at near capacity, yet some airlines are losing money, and I want to mention just one reason why.

Although the Federal Government has taken over much of the security for air travel after the terrorist attacks of September 11, airlines are still paying for national security and public safety. The airline industry forks over $777 million a year out of their own pockets for an unfunded Federal security mandate such as catering, security, security for checkpoints and exit lanes, and first class, or first flight cabin sweeps.

Specifically, the people who load the peanuts on the airplanes, for example, the airlines are forced to expend $81 million, not only on their salaries, but the security checks on these caterers.

□ 2100

The people who match your ticket with your driver's license, and then mark it up with a red Crayola at checkpoints and exit lanes, airlines, not the government, dispense roughly $80 million on these people.

And the first flight cabin sweep crew that inspects the plane prior to boarding, the people who check for bombs in the bathrooms, airlines pick up a $26 million tab for them.

But perhaps the largest unfunded security mandate is the Federal Air Marshal Service, the one which costs the airlines $195 million every year. Under current law Federal air marshals are permitted to fly without a cost to the Federal Government or the air marshals.

They sometime fly in pairs, and sometime sit in first class seats to allow them to better protect the cockpit. But they can bump off the plane a paying passenger as well. The Air Transportation Association estimates that airlines are losing $195 million a year in opportunity costs by losing these seats.

Continental Airlines, a carrier based ought of Houston, Texas, part of my Congressional district, loses $7 to $9 million a year because they cannot sell the seats used by Federal marshals to the public.

I say again, national security and public safety are the responsibilities of the Federal Government. If the Federal Government wants air marshals on our airplanes, the Federal Government should pay for this service.

The Federal Government should shell out the money to pay for the travel of Federal air marshals, because this is a law enforcement expense, instead of saddling the expenditure on the airplanes.

Mr. Speaker, we want the Federal air marshals on our planes, and while many of their accomplishments remain below the radar, their presence on thousands of domestic flights since 9/11 have helped to maintain the safety of our skies, but the Government should pay their way.

Mr. Speaker, some may argue that it is the airline's responsibility to provide for some reasonable security. Well, the airplanes already cough up scores of dollars to comply with Federal regulations. For example, the Federal Airline Administration reports that full deployment of hardened cockpit doors meeting outlined specifications have been implemented on about 10,000 airliners and foreign aircraft flying to and from the United States.

Who paid for most of this, Mr. Speaker? The airlines, because the Government, our Government told them to.

Still, airlines face additional expenditures in the name of safety. Video monitors and other devices to alert pilots of cabin activity as well as guns in the cockpit are just a few of the other efforts being undertaken by the industry, all of which, Mr. Speaker, cost money.

If the Government does not offer financial assistance to implement these technologies, who will? Once again, it is the airlines. When will we be substantially decreasing the hundreds of millions of dollars they incur in unfunded Federal security mandates?

Mr. Speaker, we must bring some relief to these carriers by reducing these unfunded mandates that they are expected to pay.

I urge my colleagues to help preserve this vital industry and start imploring

our Government to pay for the security of this Nation.

When you are spending taxpayer money for bridges that go nowhere, funding fish hatcheries and wasting precious dollars on foreign give-away programs, we must be responsible to the country by securing the air. That is the first duty of government.

Mr. Speaker, when the next airline files for bankruptcy, we will all bemoan the tragic news, but unless we change our policy the Federal Government will be responsible for putting an institution, the airline industry, on the road of economic ruin, and then we will ask the question what happened to the airlines in our skies.

REDUCE OUR DEPENDENCE ON FOSSIL FUELS

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

Ms. WOOLSEY. Mr. Speaker, if we want to reduce the threat of terrorism against the United States, we must rust reduce America's dependence on foreign oil. Nothing threatens our country and our security more than our reliance on oil from repressive Middle East regimes like Saudi Arabia and Libya.

Of the 21 million barrels of oil consumed by the U.S. each day, 14 million are imported from other countries. Most are imported from the Middle East, where as we know democracy is not pervasive. This lack of democracy allow the authoritarian leaders of many Middle East countries to pocket billions of dollars each year from American oil purchases.

So while the leaders of these countries are becoming increasingly wealthy, the rest of their people fail to benefit from the oil proceeds. Sadly, this economic disparity allows the powerful elite to tighten their hold over their people.

This repressive power structure allows the conditions which give rise to terrorism, resource scarcity, extreme poverty, and lack of education to run rampant. It is quite clear that we need to decrease our dependance on foreign oil in order to keep America safe from the threat of terrorism.

But there is a right way, and there is a wrong way to accomplish this goal. Many Members of Congress have suggested, today in fact, that we can simply drill for gas and oil off the coasts of our shores, or in places like the Arctic National Wildlife Refuge in Alaska to solve our energy crisis.

Unfortunately this suggestion is just plain wrong. In fact, drilling for oil in the United States would do little to immediately reduce our dependance on foreign oil, because it would take at least a decade to get a drilling operation up and running in ANWR or off our coasts, and even then there is no telling whether there is usable oil.

That does not sound like a comprehensive energy strategy to me. No. Drilling for oil just is not the answer. We need to accept the fact that fossil fuel is a thing of the past. To solve the current energy crisis and to prepare for a secure and successful future, we need to invest in conservation and renewable and efficient sources of energy.

For example, providing tax incentives for the construction of energy efficient buildings and manufacturing energy efficient heating and water heating equipment could save 300 trillion cubic feet of natural gas over 50 years.

By failing to take advantage of renewable energy technologies, we are continuing to promote our national insecurity by providing billions of dollars each year to repressive regimes.

That is why I have reintroduced the smart security resolution, H. Con. Res. 158. SMART is a sensible multilateral American response to terrorism.

SMART will help secure America for the future by preventing the threat of terrorism, by reducing nuclear stockpiles, eliminating the possible use of nuclear weapons through diplomatic means, and establishing a new Apollo project to secure America's energy independence.

Many Members of Congress understand the importance of reducing our dependance on foreign oil to ensure our national security, and that is why 49 of my colleagues signed on as original cosponsors to the SMART security resolution.

Mr. Speaker, our Nation's energy and foreign policies are interconnected. One cannot address one without addressing the other. That is why SMART security promotes a new Apollo project that will ensure our Nation's energy security within the next 10 to 15 years.

If we fail to address this problem, we will only ensure the continuation of deep disparities of wealth in the Middle East. These misguided policies will encourage future acts of terrorism, which will encourage future warfare.

And speaking of warfare, do we know for sure that our reason for attacking Iraq was not to take control of Iraqi's oil? Until we are independent of our need for foreign oil, we will always be suspect. It is time to get serious about our reliance on foreign oil, which will lead directly to a smarter security strategy.

METHAMPHETAMINE PROBLEMS

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

Mr. OSBORNE. Mr. Speaker, this evening I would like to discuss a major problem that is moving rapidly across the country. That is the problem of methamphetamine.

Methamphetamines first came into prominence during World War II. Many Japanese kamikaze pilots were given methamphetamine to allow them to finish their mission.

From that point on it spread to Hells Angel and other biker groups on the West Coast and has been slowly spreading its way from west to east across the country. It is the most highly addictive drug that is known at the present time, often causes complete addiction after only one usage.

It creates a euphoria that lasts between 6 and 8 hours. There is a huge dopamine release in the brain, and it is cheap. It costs much less than heroin and cocaine, provides increased energy. Many young mothers who have two or three kids and have a tremendous energy drain become drawn to this particular drug.

People who are working two jobs, sometimes truck drivers who want to stay awake for 2 or 3 days on end find that methamphetamine serves their ends. Often it always results in fairly rapid weight loss.

However, whatever goes up must come down, and we find that those who are using methamphetamine usually will experience, at times, extreme anxiety, depression, hallucinations, many times will actually sink into a psychosis.

Violent behavior is often a side effect. Many methamphetamine addicts experience crank bugs. These are the hallucination that there is a bug underneath the skin. As a result, in order to get those bugs out, they will pick at their skin. That will cause rather extreme skin lesions to result.

Also, when they use it orally, their teeth disintegrate very rapidly, extremely quick aging, and usually death ensues within a few years of methamphetamine use.

It always causes brain damage. And much of this brain damage is irreversible. An 18-year old who has been on meth for a year will have a brain scan that will look very like an 80-year old Alzheimer's patient. There is so much brain tissue that has been destroyed, that the two brain scans are somewhat indistinguishable.

It is very common to see a great deal of meth abuse in rural areas. And this is due to the fact that when you manufacture meth, there is a very strong odor of ether. And as a result, if you manufacture in the city, sometimes that odor is easily detectable.

The chief ingredient of methamphetamine is pseudophedrine, a common cold medicine. Oklahoma has done a fairly effective job of eliminating the meth labs by making pseudophedrine a class V substance. And that puts it behind the pharmacy counter.

But many other States have failed to follow suit. Other ingredients of methamphetamine are lithium batteries, drain cleaner, starter fluid, anhydrous ammonia, and iodine.

It is a tremendously toxic mix, and of course it lease a lot of toxic waste. In order to clean up a methamphetamine lab, it will cost anywhere from $5 to $6,000. Many of the suits that are worn by those cleaning un those meth labs cost about $500, and they can only be used one time because of the toxicity.

Some areas of middle America have had as many as 1,500 to 2,000 meth labs per year in these States, so it a huge expense to clean up, and a huge problem in terms of addiction.

The average meth addict, in my State, Nebraska, will commit roughly 60 crimes a year to feed that habit. So if you have ten meth addicts in a community that is 600 crimes a year. If that a small town that is a huge impact.

Much of the child abuse, child neglect, homicides, suicides that we see in these areas are due directly to methamphetamine abuse. Many counties in these areas spend 70 to 80 percent of their law enforcement dollars and their manpower on meth issues.

Our jail cells and our prisons are filled. We simply cannot keep up and take care of the methamphetamine problem. So the question is, what can Congress do with this huge problem? Currently our Byrne and our HIDTA funds, which are high intensity drug trafficking funds have been drastically reduced. We need to restore these funds. This is a huge problem in terms of funding.

The gentleman from Missouri (Mr. BLUNT) and also the gentleman from Indiana (Mr. SOUDER) have introduced legislation that regulates the sale of pseudophedrine that is necessary in the manufacture of methamphetamine. And also they would provide extra funds for meth lab clean-ups.

The gentleman from Indiana (Mr. SOUDER's) bill tracks manufacturers of pseudophedrine worldwide. And of course the pseudophedrine goes to many of the super labs, they are only seven or eight factories for pseudophedrine worldwide. And so if we know where those drugs are going, where the pseudophedrine is going, we have a pretty good idea where the super labs are.

So these bills would be tremendously helpful. So I call attention to the meth problem, call attention to the reduction in funding, and we really need to do everything we can to stamp this problem out.

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

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

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

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

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

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

□ 2115

THE DAY HAS COME TO EXIT IRAQ

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

Mr. DUNCAN. Mr. Speaker, in this week's Conservative Chronicle, William F. Buckley has a column entitled ''Day has come to Exit Iraq.''

He refers to the U.S. casualty figures, now over 1,600 dead and 11,000 wounded, and we continue to lose about 50 dead a month, and says, ''Moreover, the Iraqi deaths have increased substantially since the national election in January.''

Mr. Buckley writes, ''We are entitled to say to ourselves: If the bloodletting is to go on, it can do so without our involvement in it.''

He adds, ''The day has come where we say that our part of the job is done as well as it can be done. It is Iraq's responsibility to move on to wherever Iraq intends to go.''

Of course, several months ago, Mr. Buckley said that if he known in 2002 what he knows now, he never would have supported the war in Iraq in the first place.

These words are from William F. Buckley, a man author Lee Edwards described as the ''godfather'' of the conservative movement.

There never was anything conservative about the war in Iraq. I said from the start that it would mean massive foreign aid, huge deficit spending, and that it was not far to place almost all the entire burden of enforcing U.N. resolutions on our taxpayers and our military. Conservatives have traditionally been the biggest critics of the U.N., and the worst part of all, of course, is all the deaths.

All to bring do not an evil man, but one whose military budget was 2/10ths of 1 percent of ours and who was no threat to us whatsoever.

Two months before the House voted to authorize the war in Iraq, our then-Majority leader, Dick Armey, said, ''I don't believe that America will justifiably make an attack on another Nation. My on view would be to let him, Saddam Hussein, rant and rave all he wants and let that be a matter between he and his own country. We should not be addressing any attack or resources against him.''

Mr. Armey understood there was nothing conservative about the war in Iraq.

I voted in 1998 to give $100 million to the Iraqi opposition to help them remove Hussein. We should have let the Iraqis remove Hussein instead of sending our troops to fight and die there. Iraq had not attacked us or even threatened to attack us, and they were not even able to attack us.

By the end of this year, we will have spent $300 billion in Iraq and Afghanistan, with probably 85 to 90 percent of that being in Iraq.

But are we following the latest advice by William F. Buckley in getting out? No. Unfortunately, we are doing just the opposite.

Paul Wolfowitz, the father of this war, told the House Committee on Armed Services several months ago that we would have to be in Iraq for at least 10 years.

Last week, a Congressional Quarterly headline said, ''with ink just dry on War Supplemental, more spending expected before August.''

The Congress has just approved $82 billion more and now we are told we will be asked for even more as early as this coming August.

Instead of getting out, as William Buckley has recommended, Congress Daily reported last week that a Congressional Research Service study ''portends a more permanent presence'' in Iraq and the Middle East.

The report noted approval of $2.2 billion for additional military construction in the Middle East, supporting activities in Iraq, including $75 million for an airfield in Kuwait, $66 million for an air base in the United Arab Emirates, and $43 million for a new runway in Uzbekistan.

At a time, Mr. Speaker, when we are closing down bases in the U.S., we are building like crazy all over the world, especially in Iraq and the Middle East.

I am pro-military and pro-national defense, but I do not believe we can shoulder the defense of the entire world.

Our Founding Fathers would be shocked at what we are doing, and most of what we have done in Iraq is pure foreign aid, rebuilding roads, several thousand schools, power plants, bridges, water systems, free medical care and on and on and on. I believe in having a strong Department of Defense, but I do not believe it should be a department of foreign aid.

Syndicated columnist Georgie Ann Geyer wrote, ''Critics of the war against Iraq have said since the beginning of the conflict that Americans, still strangely complacent about overseas wars being waged by a minority in their name, will inevitably come to a point where they will see they have to have a government that provides services at home or one that seeks empire across the globe.''

Seventeen American soldiers were killed in Iraq over the last two weekends and a few others during the week.

Some have said if we pull out a civil war would erupt there. Well, what do my colleagues think we have there now?

We should at least stop the killing of American kids, heed the advice of William F. Buckley, Junior, and begin a phased and orderly withdrawal.

We cannot afford to stay there for years either in terms of lives or money.

NORTH CAROLINA'S NATIONAL CHAMPIONS

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

Mr. PRICE of North Carolina. Mr. Speaker, as a proud alumnus of the University of North Carolina at Chapel Hill, I am pleased to join several North Carolina colleagues tonight in honoring our amazing Tar Heels.

It has been six weeks since the Tar Heels were crowned the 2005 NCAA Men's Basketball National Champions, but the news accounts of their victory still paper the front door to my office. My staff tells me that nearly every day a Capitol visitor spots the coverage and walks in unannounced to say that his or her children want to go to UNC. That is music to our ears.

We know it is not all because of the basketball program, of course. UNC Chapel Hill is a fine school with an excellent academic reputation. The university consistently ranks among the Nation's top public institutions, and last year, it joined Harvard and Stanford as the only schools with prestigious Rhodes, Luce, Truman and Goldwater scholarship winners.

It sure is nice to also be among the Nation's athletic elite.

The UNC team knows what it is to come back from adversity. The championship win was especially sweet for North Carolina's three seniors, who helped lead an impressive comeback from freshman year challenges to the glory of that final game, and we are well aware of the challenges next year's team will face without these seniors and some other fine players.

But Coach Roy Williams has led Carolina to victory once, and he is going to do it again, with the same spirit and heart and dedication that he inspired in this year's championship team. Coach Williams long ago established himself as one of the premier recruiters in the country, and the talented class of 2006 that he has landed, which already includes the number one point guard in the Nation, should give us all comfort that the future we are going have is a bright future for the men in Carolina blue.

So, Mr. Speaker, I suppose that tomorrow we may finally take that newspaper down off of the front door of my office and put it in a scrapbook, but I am not the least bit worried.

That championship banner hanging from the rafters in the Dean Smith Center in Chapel Hill will be there forever alongside the many other banners that recount the proud history of one of the most storied programs in college basketball, and it will not be long before we have new banners to take pride in and more good news with which to paper our front door.

UNIVERSITY OF NORTH CAROLINA BASKETBALL CHAMPIONSHIP

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

Mr. ETHERIDGE. Mr. Speaker, I join my friend the gentleman from North Carolina (Mr. PRICE) and my other colleagues tonight because I want to take this opportunity to congratulate the University of North Carolina's men's basketball team on their latest national championship. As has been already been stated, soon the North Carolina Tar Heels will be raising the school's fourth NCAA basketball championship banner in the rafters of the Dean Dome.

In North Carolina, college basketball is as much a part of our culture as barbecue and sweet tea. Children know whether they support Carolina or Duke or Wake Forest or North Carolina State before they can walk, and a good basketball season is almost a birthright in North Carolina. It has been 12 years and a few close calls since Carolina's won a championship, but after a spectacular season, the nets have again been cut and a another championship trophy is in Chapel Hill.

In the NCAA champion game in April, the Tar Heels defeated the Illinois fighting Illini 75 to 70 in an outstanding display of teamwork and outstanding talent. Led by the performance of now former players Raymond Felton and Sean May, the Tar Heels played strong basketball on both ends of the court, along with the other members. They were able to make critical baskets when the game was on the line and played tough defense that stifled their opponent when necessary.

Just 2 years ago, Coach Roy Williams came home to North Carolina to coach a Tar Heel team coming off an 8–20 season. His leadership turned a group of talented young men into great players with heart and determination. They made a commitment to work hard, to become a better team, and now they will join the ranks of other North Carolina basketball championship players, and the list is long, two of whom I will mention, Michael Jordan and James Worthy.

As the gentleman from North Carolina (Mr. PRICE) has previously stated, UNC is well-known for producing student athletes who not only succeed in the NBA but in every walk of life, and this is important, from the university with a rich history.

I wish the best of luck to the graduating seniors and expect that they will continue to have success in their future endeavor, and I am proud to join again my colleague the gentleman from North Carolina (Mr. PRICE) and my other North Carolina colleagues this evening in congratulating the University of North Carolina players, coaches and their fans on this singular accomplishment. Go Tar Heels.

UNIVERSITY OF NORTH CAROLINA: A NATIONAL POWER IN COLLEGE BASKETBALL

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

Mr. MILLER of North Carolina. Mr. Speaker, there are a few things in life about which I am certain.

I am certain that the word ''barbecue'' means chopped pork with a vinegar-based sauce.

I am certain that ordering grits north of Richmond is a terrible gamble.

And I am certain that the order of the universe, the plan of salvation, provides that the University of North Carolina will be a national power in college basketball.

Mr. Speaker, it was tough for a couple of years, but order has been restored.

With the gentleman from North Carolina (Mr. MCINTYRE) I attended this year's Final Four in St. Louis. I honored the tradition begun by Roy Williams, who was then an assistant to Dean Smith, at the Final Four in New Orleans in 1982: I spat in the Mississippi River for luck.

I went to the top of the Gateway Arch, and I spat in Mississippi. I visited the Museum of Westward Expansion, and I spat in the Mississippi. I visited the old courthouse where the Dred Scott case was tried, and I spat in the Mississippi. Mr. Speaker, I went through the weekend with a cotton mouth. At times I was dizzy from dehydration, all from the constant spitting, but my efforts were amply rewarded in the semifinal against Michigan State and in the final against Illinois.

North Carolina played tough defense. They hustled they played team ball and they won it all.

I am proud of my alma mater, and I am proud of our basketball program. I am proud that our program has always taken academics seriously, and even those players who left early for NBA careers have usually returned to summer school to complete their degrees. I am proud that our program has taken NCAA rules seriously, and of course, I am proud of our victories.

I want to congratulate the coaches and the players from the 2005 National Championship team, as well as the students, the faculty and staff, the alumni and the fans. I thank our players for the joy they brought all Carolina fans by their victory.

Next year may be tough, with our seven leading scorers all either graduating or leaving for the NBA, but Jawad Williams, Jackie Manuel, Melvin Scott, Sean May, Rashad McCants, Raymond Felton, Marvin Williams, but Mr. Speaker, I am confident that we will again be back to the Final Four and soon.

We have talented young players from this year's team, this last year's team, who are returning, who welcome to our program a strong class of incoming freshman. They are very talented high school juniors who are now contemplating scholarship offers and the opportunity to be part of the Carolina basketball tradition.

All these incoming players will come to understand what the Carolina basketball tradition means. It is about

winning championships, but it is also about making us proud, proud of them as athletes, as students and as human beings, and Mr. Speaker, it is about maintaining the order of the universe.

THE DREAM HAS COME TRUE

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

Mr. MCINTYRE. Mr. Speaker, 9 weeks ago, 17 young men from the University of North Carolina stood here on the floor of this chamber. They came here to visit us in Washington and to visit our national Capitol during the ACC tournament.

Today, those same young men are now national champions. In the 3 weeks following their visit to Washington, they went from Chapel Hill to Charlotte to Syracuse to St. Louis where the road to the National Collegiate Athletic Association's Final Four ended, and with their reign as national basketball champions began.

As a double graduate of UNC, but more importantly, as a father, I was thrilled to be in St. Louis for the Final Four along with my colleague the gentleman from North Carolina (Mr. MILLER) and so many others, to witness the Tar Heels' triumph, that I also shared with two Carolina students, my sons, Joshua and Stephen.

□ 2130

Since they knew many of the Carolina players personally, we were particularly pleased to see this team soar from the agony of an 8 and 20 season 3 years earlier, to a 34 and 4 season that exemplified the very best in the Carolina tradition and the very best in collegiate basketball.

With the return of Coach Roy Williams to his alma mater 2 years ago, a rebuilding program began that ended in a storybook finish. Sean May, the son of one of the best ever in Final Four history, repeated his father's, Scott May's, exploits from the National Championship game of 1976. And Sean, on his birthday, April 4, became the most outstanding player of the 2005 Final Four.

It was a team effort, emblematic of the Carolina way, as former Head Coach Dean Smith would call it. There were a host of heroes:

Raymond Felton, the hard-charging point guard from the little town of Latta, South Carolina, which is just across the border from my small hometown of Lumberton, North Carolina, who made the critical free-throws, a steal and a rebound in the closing minutes to seal the victory over the University of Illinois in the championship game.

Rashad McCants, the All America swingman, whose blocked shot and steal and barrage of points against Wisconsin a week earlier in Eastern Regional propelled Carolina to the next level.

Jawad Williams, the senior who could do it all, offensively and defensively, and whose faith and character were a powerful witness.

Jackie Manuel, the 2004 defensive player of the year in the Atlantic Coast Conference;

Melvin Scott, the senior whose 3-point threat often opened up an opponent's defense;

David Noel, the critical cog in the Tarheels explosive machine off the bench;

Marvin Williams, the fabulous freshman phenomenon whose tip-in put Carolina ahead for good in the championship game; and all the rest of the players managers, trainers, assistant coaches, and other critical staff to whom we are grateful for their example of excellence, their patience, passion, purpose, and persistence, all characteristics that constitute the courage and the commitment of champions.

With five national championships, four of them since the NCAA officially started the tournament, as well as 16 Final Four appearances, 15 ACC tournament titles, and over 1,850 wins, the Carolina way is one that represents the very best of those attributes which so many other colleges and universities emulate.

My wife's sons and I were thrilled in March to host the National Champions at the national capital, and we now look forward to their visit to the White House. And we look forward to that long-awaited National Championship banner, when it is raised in the rafters in the Dean Smith Center in Chapel Hill this fall.

May God bless those Tarheels. Indeed, the dream has come true for those who wear Carolina blue.

UNIVERSITY OF NORTH CAROLINA MEN'S BASKETBALL CHAMPIONSHIP

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

Mr. BUTTERFIELD. Mr. Speaker, tonight we have all talked about how sweet and how wonderful it was for the University of North Carolina to be crowned as the NCAA Champions. But Mr. Speaker what makes this team so special is how well they exemplified what it means to be a team.

Winning the five games on their way to claiming their fourth national championship, three different players led the team in scoring and four players led the team in rebounding. Sean May certainly earned the honor of tournament MVP. But the road to the finals required the collective effort of the entire team.

After two easy wins again, Oakland and Iowa, Carolina fans collectively held their breath when the referee's whistle blew in the final seconds against Villanova. Fear of a shooting foul turned into the joy of a traveling call against Villanova, and the Heels held on for the one-point win. A strong game against Wisconsin then sent Carolina on to the final game in St. Louis.

The game brought together the two best teams in the country. It was a fitting finale to a memorable season and an exciting NCAA tournament. Fittingly, the game was full of tension and drama until the waning seconds. Illinois showed the perseverance and will that had resulted in 37 wins, while Carolina showed the determination, the unity, and the cohesion needed to overcome a team that went undefeated for much of the season.

This Carolina team, Mr. Speaker, would have made Dean Smith proud, because they won using a primary tenet of his Carolina way: They shared the ball and they played unselfishly. By playing as a team, they led the Nation in scoring and assists, and they played at a pace very few teams could manage.

Therefore, on behalf of the citizens of the First Congressional District of North Carolina, my congratulations go to Coach Williams and to every member of the University of North Carolina basketball team. You have made us proud across our State and you have shown us the great benefit of working as a team. Congratulations and best wishes.

TRIBUTE TO ANSLEY MEADERS

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, I rise today to pay tribute to the life and legacy of my late friend and the former Mayor of Marietta, Georgia, Mrs. Ansley Little Meaders.

Known for her quick wit, gracious hugs and dedication to her community, Ansley committed herself to making a difference for the City of Marietta and its schools.

Born on one of Marietta's oldest families, Ansley graduated from Marietta High School in 1964 where she was a star on the girl's basketball team. After attending the University of Georgia, she married her high school sweetheart, Frank Meaders, and followed in her father's footsteps and spent more than 20 years in banking.

Upon the passing of former Marietta Mayor Joe Mack Wilson, Ansley was drafted by many to seek election for the city's top job. She won a special election in the summer of 1993, and was reelected twice more, thus serving for more than 8 years, making her the third longest serving Marietta mayor.

Ansley had a different approach to politics. She was determined not to allow any sort of partisanship to label her. When asked whether she was a Republican or a Democrat, she was quick to respond that she was a Presbyterian.

While mayor of Marietta, Ansley was known for her love of and dedication to

the city's school system. I had the honor, Mr. Speaker, as serving as chairman of the Marietta School Board during that time, and I experienced firsthand the compassion and commitment she had for the schools.

In 1984, Ansley conceived the idea of Marietta's Schools Foundation, an organization to support the teachers and the students of Marietta. As the organization's president, Ansley presented the Distinguished Alumni Award at nearly every Marietta High School graduation ceremony for more than 20 years. And each year she urged graduating seniors to be loyal to their alma mater, to their community, and to the valued friendships created at Marietta High.

As the city's leader, Ansley was successful in lowering taxes and improving city services, building a new courthouse, adding two new fire stations, and constructing a new police headquarters. Even with all of her accomplishments, she remained a gracious and humble leader.

Two weeks ago, on May 4, 2005, Ansley Meaders suffered a fatal heart attack while cooking dinner in her home. This devastating news fell over the community like a dark cloud, Mr. Speaker. One of our greatest community members had slipped away from us. She leaves behind her husband of more than 40 years, Frank, two children, Mary Ansley and Robert, and four precious grandchildren, Rosser, Georgia, Trey and Hunter; and an entire community who loved her dearly.

After only 59 years, Ansley's life and physical presence in her beloved Marietta, Georgia, has ended. But, Mr. Speaker, her passing leaves Marietta with a legacy of service, dedication, and humble leadership that will remain for generations to come. God bless Mayor Ansley Meaders.

CAFTA

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

Ms. WATERS. Mr. Speaker, CAFTA, the United States Central American Free Trade Agreement, is yet another unfair trade deal that will hurt American workers. CAFTA is the latest unfair trade deal in a decade of failed trade policies. Over the last 12 years, the United States trade deficit has exploded from $39 billion in 1992 to over $618 billion in 2004. If CAFTA becomes effective, the result will be fewer jobs for American workers.

CAFTA is modeled on NAFTA, the North American Free Trade Agreement, which had and continues to have a devastating impact on many American workers. When NAFTA was passed in 1994, the United States had a $2 billion trade surplus with Mexico. In 2004, we had a $45 billion trade deficit in Mexico. That means our trade deficit with Mexico increased by an average of $4.7 billion per year over the last 10 years. As a result of NAFTA, the United States has been exporting American jobs to Mexico.

Mr. Speaker, the countries of Central America already receive preferential trade benefits. About 80 percent of exports from CAFTA countries enter the United States duty free. If CAFTA is passed, 100 percent of nontextile manufactured goods from Central America will enter the United States duty free.

CAFTA supporters like to claim that CAFTA will create new markets for American products, but this argument is highly flawed. The six countries of Central America, El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica, and the Dominican Republic are among the world's smallest economies. These six countries have a combined economic output of only $85 billion. My home city, Metropolitan Los Angeles, with a $411 billion economy, produces nearly five times the volume of goods and services as the CAFTA countries. The CAFTA countries are simply just too small to absorb a significant quantity of American manufactured goods.

Unfortunately, the countries of Central America also are among the poorest countries. The average Nicaraguan worker earns only $2,300 per year, or about $191 per month. Forty percent of Central American workers earn less than $2 per day. Central American workers simply cannot afford to buy American cars from Ohio or American computers from California.

Mr. Speaker, I have spent much of my time in Congress working on the issue of debt relief for poor countries. Two of the CAFTA countries, Honduras and Nicaragua, are included in my legislation, H.R. 1130, The Jubilee Act, which cancels the debts that poor countries owe to multilateral institutions like the International Monetary Fund and the World Bank. In 2004, Nicaragua paid these institutions $107 million in debt service payments. That is $107 million that Nicaraguans could not spend on American products. As long as these countries remain heavily indented and deeply impoverished, their people will never be able to afford American products made by American workers.

Any way you look at it, CAFTA is a one-sided deal that offers limited benefits to foreign workers at a tremendous cost to American workers. The only service these six teeny Central American countries can provide to the United States is cheap labor. It is no surprise, then, that the largest share of U.S. exports to the CAFTA countries consist of fabric. This fabric is stitched into clothing and shipped right back to the United States where it is sold to American consumers.

CAFTA is not a free-trade agreement at all, it is an outsourcing agreement. It allows profit-hungry corporations to shift American jobs to impoverished countries, where workers can be forced to work long hours for little pay and no benefits. It is a bad deal for Central American workers and it is an even worse deal for workers here in the United States.

Mr. Speaker, American workers need good jobs that pay good wages. They do not need another NAFTA. I urge my colleagues to join me in defeating CAFTA.

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

(Mr. FILNER 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 Mississippi (Mr. TAYLOR) is recognized for 5 minutes.

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

□ 2145

VOTE NO ON CAFTA

The SPEAKER pro tempore (Mr. MARCHANT). 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, I thank the gentlewoman from California (Ms. WATERS) for her eloquence in opposition to the Central American Free Trade Agreement. She obviously understands this much better than some of my other colleagues who have not been so eloquent and thoughtful in their comments about this agreement.

I rise tonight to address the House about the Central American Free Trade Agreement. Last year President Bush signed the Central American Free Trade Agreement, a one-sided plan, as the gentlewoman from California (Ms. WATERS) said, that will lead to more outsourcing. That is what this plan is all about, and not a plan to export American products or help American industry. It is a one-sided plan to benefit multinational corporations at the expense of the United States and Central American workers, small businesses and farmers.

Every trade agreement negotiated by this administration has been ratified by Congress within 65 days of its signing. In other words, when President Bush's United States trade representative negotiated the Moroccan trade agreement, when the President signed the Australia trade agreement, the Singapore trade agreement and the Chilean trade agreement, all four of those trade agreements, upon signature of the President, were voted on by this Congress and passed within 60 days.

The Central American Free Trade Agreement, which we will discuss for a few moments tonight, has languished in Congress for nearly 1 year without a vote because this wrong-headed trade

agreement offends large numbers of Republicans and Democrats in this House, and a significantly higher percentage in the United States of America.

Look at what has happened with our trade policy in the past decade. I was elected to Congress in 1992, 13 years ago. The year I was elected, the United States had a trade deficit of $38 billion. That means our country imported $38 billion more goods than we exported. Today, or last year in 2004, our country's trade deficit was $618 billion. So it went from $38 billion to $618 billion.

So what is the President's response to that and what is the Republican leadership's response? Let us do more trade agreements. As if they are working. It does not make sense. Opponents to the Central American Free Trade Agreement understand these numbers. We know what has happened. We can look at the numbers in 1992 when it was $38 billion. The next year Congress passed the North American Free Trade Agreement, and the deficit began to grow. It exceeded $100 billion in 1995. A few years later, it exceeded $200 billion. Around this time Congress passed the China trade agreement, the China PNTR, Permanent Normal Trade Relations with China. Then our trade deficit passed $300 billion, approaching $400 billion. In 2003 it exceed $500 billion; 2004 it exceeded $600 billion. And we are on a path in 2005 to see our trade deficit continue to explode to over $700 billion.

It is the same old story. Every time there is a trade agreement, the President of the United States promises more jobs for Americans, promises more manufacturing done in our country, promises a higher standard of living for Americans, promises better wages for workers in developing countries, and promises a higher standard of living in poor countries.

Yet with every trade deficit, every single time, NAFTA, China, and every other trade agreement, with every trade agreement the promises fall by the wayside in favor of large business interests, not small manufacturing, machine shop owners, but big business interests. They fall by the wayside in favor of big businesses interests that send U.S. jobs overseas and exploit cheap labor abroad.

This chart, this is the last 6-or-so years and what has happened to manufacturing in our country. The States in red are States that have lost a particularly high percentage, more than 20 percent of their manufacturing. All of these States have lost more than 20 percent of their manufacturing jobs as these trade agreements have kicked in and taken effect. Michigan, 210,000; Illinois, 224,000; Ohio, 216,000; Pennsylvania, 199,600; New York, 220,000; North Carolina, 228,000. Smaller States, Mississippi, Alabama, South Carolina, West Virginia, Maine, and Massachusetts, have lost somewhere in the vicinity of 50,000 to 150,000 manufacturing jobs.

Mr. Speaker, these are just numbers. These numbers may say, okay, trade policy is not working, that is pretty clear, but put a human face with these numbers. Every time a community, Elyria, Ohio, in my district, when York manufacturing shut down and moved some jobs to other States, most of those jobs to Mexico, 700 families lost their major source of income. Those families were hurt. Those children in those families were hurt. The school district in Elyria was hurt. Police and fire protection in those communities are cut back.

These numbers, whether it is 100,000; 200,000 in Washington State; or 35,000 in Oklahoma; 200,000 in Texas; 72,000 in Florida, these are numbers; but there are human faces with these numbers. Every time a manufacturing plant closes and moves overseas, children are hurt, families are hurt, schools are hurt, communities are hurt. It does not make sense.

In the face of growing bipartisan opposition, the administration and Republican leadership have tried every trick in the book to pass the Central American Free Trade Agreement. First of all, the administration, when they saw the merits of the argument were simply not working with Congress, the American people and this Congress rejected out of hand for the last 12 months, that is why we have not voted on the Central American Free Trade Agreement for a whole year, it is clear they rejected out of hand those arguments that the administration and the largest corporations in our country were making about the Central American Free Trade Agreement.

So what did the administration do? They linked the Central American Free Trade Agreement to fighting the war on terror. They said that if we do not pass the Central American Free Trade Agreement, it would cause problems in fighting the war on terror. Well, that argument, nobody really bought that argument. Republicans and Democrats did not buy it, in part because 10 years of the North American Free Trade Agreement has done nothing to improve border security between the United States and Mexico. That argument simply does not sell.

So the administration tried something else. First their arguments were not working. Then they tried to play the terrorism card, that we need this trade agreement with these six countries in order to fight the war on terror. The next thing they tried was 2 weeks ago the United States Chamber of Commerce, allies of the President on passing this agreement, representing the largest companies in America, the U.S. Chamber of Commerce put together a junket for those presidents to travel to the United States.

Those six presidents, five Central American presidents and the Dominican Republic president flew around the United States hoping to sell CAFTA. Large businesses in the U.S. had not changed the American people's minds. The President's arguments were not working, so these six presidents traveled to Albuquerque, New York, Los Angeles, Miami, Cincinnati, Ohio in my State. And, finally, they returned to Washington. But again they failed.

The Costa Rican president announced that his country would not ratify CAFTA unless an independent commission could determine that the agreement would not hurt working people in Costa Rica. As these six presidents flew around the country, they did not convince the newspapers, the American public, or Congress. And one of their own said I am not so sure we should ratify this agreement either.

Now the next step is the most powerful Republican in the House, the gentleman from Texas (Mr. DELAY), the House majority leader, joined by the Committee on Ways and Means chairman, the gentleman from California (Mr. THOMAS), said there would be a vote on CAFTA by Memorial Day, which is the 1-year anniversary of the President signing the Central American Free Trade Agreement.

We are barely 1 week away from that 1-year anniversary, and still no vote in sight. I would add that this agreement, unlike every other trade agreement, has been languishing in this Congress. Every other trade agreement sent by President Bush was passed within 60 days. This trade agreement has been 11 months and 20-some days still without a vote because the people of this country, in this Congress, the people's representatives, simply do not buy that our trade policy is working.

Mr. Speaker, look at these numbers. How can you make the argument that trade policy in America is working when we have gone from a $38 billion to a $618 billion trade deficit in only 12 years when we have pursued these kinds of NAFTA-like trade policies. Understand, CAFTA rhymes with NAFTA for a reason. CAFTA is very similar to NAFTA. It is the same kind of trade agreement; we will see the same kind of results. It is simply not working.

Last month two dozen Democrats and Republicans in Congress joined more than 150 business groups and labor organizations on the steps of one of the House office buildings saying vote ''no'' on the Central American Free Trade Agreement. Last week more than 400 workers and Members of Congress gathered again in front of the Capitol saying vote ''no'' on CAFTA.

Why? It is simple. Because Republicans and Democrats, business and labor groups know what the administration refuses to admit. What the gentlewoman from California (Ms. WATERS) said, CAFTA is about one thing and one thing only: CAFTA is about access to cheap labor. We know that CAFTA is about access to cheap labor simply because Central American countries cannot afford to buy American goods. Let me explain what that means.

About 5 years ago, Mr. Speaker, I flew at my own expense to McAllen,

Texas, rented a car and went across the border to Reynosa, Mexico. I wanted to see the face of globalization. I wanted to see what the North American Free Trade Agreement after 5 or 6 years in effect, what it really meant for our country, what it meant to Mexico, what it meant to our relations, and on the border.

I went to Reynosa, Mexico. I visited a couple who worked at General Electric Mexico, 3 miles from the United States. Their home was a small shack, maybe 20 feet by 15 feet. They lived in a home with no electricity, no running water, with dirt floors. When it rained hard, the dirt floors turned to mud. As I walked around their neighborhood, I saw other shacks that looked a lot like theirs. Amazingly enough, I could tell where the workers worked because their shacks were built, their homes were built out of packing material from the companies for which they worked. Cardboard boxes, crates, wooden platforms, that is how they constructed their roof and walls and their homes.

As I walked around their neighborhood, I saw a ditch behind their home that was maybe 4 feet wide. Who knows what human waste and industrial waste was running through this ditch. Children were playing nearby. The American Medical Association said the area around the U.S-Mexican border is the most toxic place in the western hemisphere.

We then went to a General Motors plant not far from these workers' homes. The General Motors plant looked just like a General Motors plant in Ohio. It looks just like the Lordstown plant in northeast Ohio. It looked just like a Chrysler plant in Twinsburg. It looked just like a Ford plant in Avon Lake or Lorain, Ohio.

As you walked through this plant, it was modern; the technology was up to date. The floors were clean; the workers were working hard. There was one difference between the plant in Mexico and the plant in Lorain, Ohio. The difference was there was no parking lot at the plant in Mexico. Why? Because Mexican workers were not making enough, 3 miles from the United States, were not making enough to buy the cars that they make, 3 miles from the United States.

You could go halfway around the world to a Motorola plant in Malaysia, the workers were not earning enough to buy the cell phones that they make. You could come halfway back around the world to Costa Rica to a Disney plant, the workers were not earning enough to buy the toys for their children that they were making. You could fly halfway around the world again to the People's Republic of China, to Communist China to a Nike plant, and the workers were not making enough to buy the shoes that they make.

□ 2200

The Central American Free Trade Agreement represents that kind of trade policy. Nicaraguans, Guatemalans, Hondurans make about one-tenth what Americans make. An American makes about $38,000 average a year. In many cases, middle-class Americans make enough to buy a car, to buy a home, to send their kids to college, to purchase washing machines and to purchase appliances and to purchase carpet and all the things that they buy. Unfortunately, Guatemalans and Hondurans and Nicaraguans, because their wages are so low, because the global economy is not working for them, they simply cannot afford to make these purchases. So this Central American Free Trade Agreement, it is about sending American jobs to Nicaragua, Guatemala, Honduras, Costa Rica and the Dominican Republic. It is about sending these jobs there where these workers simply are not going to make enough money to buy American products. It is not about those people in those countries purchasing goods made in the United States. We are losing manufacturing jobs. Our overall trade deficit continues to increase. You can bet that Guatemalan workers cannot afford to buy cars made in Ohio. Nicaraguan workers cannot afford to buy steel made in West Virginia. Honduran workers cannot afford to buy software made in Seattle or prime beef cuts from Nebraska or apparel from Georgia or textiles from North Carolina, simply because in these trade agreements we are doing nothing to lift up wages in these six countries. No enforceable labor standards, no enforceable environmental standards, no efforts by the Central American Free Trade Agreement to lift up worker standards so those workers can join the middle class and they can begin to buy American products. These trade agreements are all about shipping jobs overseas, are all about outsourcing labor, are all about American companies and Taiwanese companies and South Korean companies and other countries' companies going to Central America to exploit cheap labor and to exploit those workers. There is a falling minimum wage, the ongoing nightmare of abject poverty for these workers despite back-breaking work and deplorable working conditions.

CAFTA's nations are not only among the poorest countries, they are among the smallest economies. The entire economic output of these six CAFTA countries, five in Central America and the Dominican Republic, the entire combined economic output is $62 billion. That is equivalent to the economic output of Columbus, Ohio; equivalent to the economic output of Memphis, Tennessee; or equivalent to the economic output of Orlando, Florida.

CAFTA, as I said, it is not about exporting American production or goods, it is not about Americans making things and selling them to Central America, it is about access to cheap labor and exporting American jobs much more than it ever is exporting U.S. goods. As I said, the average worker in Nicaragua earns $3,800 a year. That is simply not enough to buy American products and it is not enough to mean any kind of exports from the United States to those countries.

Frankly, the Central American Free Trade Agreement should be called the Central American Free Labor Agreement. That is what it is all about. It is not about trade. It is about outsourcing cheap labor.

I mentioned a minute ago that these presidents from these five Central American countries and the Dominican Republic traveled to the United States on a tour to Albuquerque and Cincinnati and to Los Angeles and to Washington and Miami. With all due respect to the Central American leaders who toured our Nation 2 weeks ago, and we should welcome them, what they did not say and what millions of us know already as they campaigned for this agreement is that millions of their workers in addition to tens of millions of American workers simply do not like this trade agreement. What they did not tell reporters is that more than 8,000 Guatemalan workers protested against CAFTA in March. Two of them were killed by government security forces. They did not tell us that tens of thousands of El Salvadorans protested CAFTA 2 years ago. They did not tell us about 18,000 letters sent last year to the Honduran congress by Honduran workers that decried this dysfunctional cousin of the North American Free Trade Agreement. They did not tell us about the 10,000 people in Nicaragua who protested CAFTA in 2003. They did not tell us about the 30,000 CAFTA protesters this past fall in Costa Rica. They did not tell us that literally hundreds of thousands of workers have protested the Central American Free Trade Agreement, workers in Central America, in more than 45 demonstrations in the last 3 years.

Trade pacts like NAFTA and CAFTA enable companies to exploit cheap labor, then import those products back to the United States. I repeat, that is what these trade agreements are about. They are about shutting down American factories, moving these factories to Central America as they did to Mexico, exploiting workers, paying them barely a livable wage let alone a living wage, paying them barely a livable wage, then sending products back into the United States. As a result, America is bleeding manufacturing jobs and running unprecedented trade deficits.

Again, look at the trade deficit, from $38 billion to $618 billion in a dozen years. President Bush, Sr., back in 1992 when we had a trade deficit of $38 billion, he said, $1 billion in trade deficit translates into 12,000 lost jobs. So if you have a trade surplus of $1 billion, you increase 12,000 jobs. If you have a deficit of $1 billion, you lose 12,000 jobs. Multiply that by $618 billion and you see the kind of job loss, perhaps as much as 7 million jobs lost because of

our manufacturing and trade policy in this country.

What we are seeing, Mr. Speaker, is America is bleeding with our trade deficit, and bleeding manufacturing jobs from our country. Again, all these States in red in the last 5 years have lost more than 20 percent of their manufacturing jobs. All the States in blue have lost at least 15 percent of their manufacturing jobs. Basically every large State, every single large State in this country: California, Texas, Florida, North Carolina, Georgia, Ohio, Pennsylvania, New York, Michigan, Illinois, Wisconsin, Minnesota. Every single large State has lost at least 15 percent, one out of six manufacturing jobs in this country in the last 5 years. Again, those manufacturing jobs, losing those jobs, they are not just numbers. They are about families, they are about children, they are about schools and they are about communities and police and fire and making our communities prosperous. Gregory Mankiw, the President's former Chief Economist, portrayed the exporting of jobs as inevitable and desirable. He said, ''When a good or service is produced more cheaply abroad, it makes more sense to import it than to provide it domestically.''

Unfortunately, that is the attitude of the administration. That is the attitude of people who have written this trade policy that have led to these kinds of manufacturing job losses and have led to these kinds of trade deficits and that is the attitude of people who are pushing the Central American Free Trade Agreement.

What really instead, Mr. Speaker, makes sense is a trade policy that lifts workers up in rich countries like ours, in poor countries like Costa Rica and Honduras and Guatemala and the Dominican Republic and Nicaragua, while respecting human rights and democratic principles. The United States with its unrivaled purchasing power, the greatest in history, and its enormous economic clout, again the greatest in history, we as a Nation are in a unique position to help empower poor workers in developing countries while promoting prosperity at home.

When the world's poorest people can buy American products rather than just make them, then we will know, Mr. Speaker, finally that our trade policies are working.

OMISSION FROM THE CONGRESSIONAL RECORD OF WEDNESDAY, MAY 18, 2005 AT PAGE H3462

Mr. COX. Mr. Chairman, I yield to the gentleman from Mississippi for purposes of closing debate.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

We have heard a number of statements about this bill. It is an initial step in the right direction. It is not comprehensive. There are some glaring overlooks in the bill. We do not address any aviation security, we do not address chemical security. There are a number of things that we could do better in this bill.

However, I have to join my chairman in recognizing the fact that this is our first attempt to do an authorization bill. It is by no means complete, but given his leadership and willingness to work in a bipartisan spirit, I am looking forward to moving this legislation and making sure that we do the right thing for this country. We have to secure this Nation.

I will be offering a substitute later in the debate which obviously will cover far more areas than what this authorization bill covers that we are debating here today.

Clearly, if we support the substitute, we can move closer to making America secure.

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

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

Mr. Chairman, I want to begin by thanking the gentleman from Mississippi (Mr. THOMPSON), both for his generous remarks but, more importantly, for his hard work on this piece of legislation over a period of several months and, as he pointed out, through ultimately a very long, arduous markup in the committee where members on both sides had an unlimited opportunity to offer amendments and consider a variety of topics.

As we conclude general debate and prepare to move into debate on the specific amendments on this bill, I think we can recognize one important fact, and that is that we are all agreed on the essence of the underlying bill. We have some things, each of us, that we might like to add to this bill, and I predict that in due course, over the rest of this year, we will have an opportunity again on this House floor to take up issues, including aviation security, chemical security, port security, and so on.

But the entirety of what we do accomplish in this bill is bipartisan in nature and agreed upon by the members on both sides of the aisle, at least in the Committee on Homeland Security, and we will soon see about the House as a whole. That is because we have allocated the $32 billion, for what is now the third largest Cabinet department, in a way that demonstrably advances our number one goal of preventing terrorism in the future on American soil, directed against American citizens, protecting America's most critical infrastructure against terrorist attack, and being prepared to respond and recover should, against all our best preparations, that ever occur in the future.

In order to bring us to this point, we have had to have a great deal of bipartisan assistance, all motivated by the best interests of the country from Members on both sides.

I specifically want to mention the vice chairman of the full committee, the gentleman from Pennsylvania (Mr. WELDON); the chairmen and ranking members of our five subcommittees, and the Staff Directors on both sides, Ben Cohen on the Majority side and Calvin Humphreys on the minority side. The staffs have done extraordinary professional work, and their staffs are drawn from, in many cases, the executive branch, with experience about precisely the work and the programs that we are overseeing in this legislation. Many of them have come from the intelligence community, others come from the Coast Guard and other branches of the armed services.

We can be very proud in this House about the institutionalization of the role of homeland security oversight and authorization that has been set in motion as a result of a decision of leadership on both sides, and I want to conclude by taking this opportunity, once again, to thank the House leadership for its very wise decision to create permanent authorizing and oversight responsibility in this Congress on an institutionalized basis, and then, today, taking the next important step of institutionalizing an annual authorization process so that together the legislative branch and the executive branch will closely collaborate on what is the essence of our national security responsibility to all Americans: making sure that we are safe and secure on American territory for the American citizens.

So, Mr. Chairman, with that, I will draw this general debate to a conclusion, and I look forward to working with the body on the several amendments that have been made in order under the rule.

Mr. Chairman, I will at this time introduce into the RECORD a series of letters exchanged between the Committee on Homeland Security and other standing committees, including the Permanent Select Committee on Intelligence of the House of Representatives, concerning jurisdictional issues raised by this legislation.

COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, May 18, 2005.

Hon. CHRISTOPHER COX,
Chairman, House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your willingness to consult and work with me as you guided H.R. 1817, ''the Department of Homeland Security Authorization Act for Fiscal Year 2006'' from introduction, through the Homeland Security Committee, and to the floor. As you know, the Committee on Government Reform has been interested in a number of provisions within H.R. 1817. The Committee has been concerned that the expansion of the Department's responsibilities for information sharing in Title II, Subtitle B, Homeland Security Information Sharing and Analysis Enhancement, not lessen the Department's responsibility to follow government-wide policies and procedures for the sharing of information. In addition to the information sharing provisions of Subtitle B, the Committee has specific jurisdictional interests in the following provisions of your substitute: §201—Consolidated Background Check Process; §216—Coordination of homeland security threat analysis provided to

non-Federal officials; §217—9/11 Homeland Security Fellows Program; §221—IAIP Personnel Recruitment; §302—Technology Development and Transfer; §303—Review of Antiterrorism Activities; Title III, Subtitle B—Department of Homeland Security Cybersecurity Enhancement; §334—Protection of Information; and §502—GAO Report to Congress.

I would like to confirm our mutual understanding with respect to the consideration of H.R. 1817. As you know, H.R. 1817 was sequentially referred to the Committee on Government Reform. Because of your willingness to work with us to resolve issues of concern to the Committee and to include those improvements to the bill in your amendment in the nature of a substitute on the floor, the Committee on Government Reform did not consider H.R. 1817. However, the Committee has done so only with the understanding that this procedural route would not prejudice the Committee on Government Reform's jurisdictional interest and prerogatives on this bill or similar legislation.

I respectfully request your support for the appointment of outside conferees from the Committee on Government Reform should this bill or a similar Senate bill be considered in conference with the Senate. Finally, I would ask that you include a copy of our exchange of letters on this matter in the Congressional Record during the House debate of this bill. If you have questions regarding this matter, please do not hesitate to call me. Thank you for your attention to this matter.

Sincerely,

TOM DAVIS,
Chairman.

COMMITTEE ON HOMELAND SECURITY,
Washington, DC, May 18, 2005.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Committee on Government Reform's jurisdictional interest in H.R. 1817, ''the Department of Homeland Security Authorization Act for Fiscal Year 2006'', and your willingness to forego consideration of H.R. 1817 by the Committee.

I agree that the Committee on Government Reform has a valid jurisdictional interest in particular sections of H.R. 1817, and that the committee's jurisdiction with respect to those provisions will not be adversely affected by the Committee's decision to not consider H.R. 1817. In addition, I agree that for provisions of the bill that are determined to be within the jurisdiction of the Committee on Government Reform, I will support representation for your Committee during conference with the Senate on this or similar legislation, should such a conference be convened.

As you have requested, I will include a copy of your letter and this response in the Congressional Record during consideration of the legislation on the House floor. Thank you for your assistance as we work towards the enactment of H.R. 1817.

Sincerely,

CHRISTOPHER COX,
Chairman.

COMMITTEE ON AGRICULTURE,
Washington, DC, May 2, 2005.

Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, House of Representatives, Washington, DC.

DEAR CHAIRMAN COX: On April 27, 2005, the Committee on Homeland Security ordered reported a committee print titled the, ''Department of Homeland Security Authorization Act for Fiscal Year 2006.'' Section 309 of the bill, which provides for a report to Congress on protecting agriculture from terrorist attack, falls within the jurisdiction of the Committee on Agriculture. Recognizing your interest in bringing this legislation before the House quickly, the Committee on Agriculture agrees not to seek a sequential referral of the bill. By agreeing not to seek a sequential referral, the Committee does not waive its jurisdiction over this provision or any other provisions of the bill that may fall within its jurisdiction. The Committee also reserves its right to seek conferees on any provisions within its jurisdiction considered in the House-Senate conference, and asks for your support in being accorded such conferees.

Please include this letter as part of the report on the Department of Homeland Security Act for Fiscal Year 2006, or as part of the Congressional Record during consideration of this bill by the House.

Sincerely,

BOB GOODLATTE,
Chairman.

COMMITTEE ON HOMELAND SECURITY,
Washington, DC, May 16, 2005.

Hon. BOB GOODLATTE,
Chairman, Committee on Agriculture, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Agriculture Committee's jurisdictional interest in section 309 of the ''Department of Homeland Security Authorization Act for Fiscal Year 2006.'' I appreciate your willingness not to seek a sequential referral in order to expedite proceedings on this legislation. I agree that, by not exercising your right to request a referral, the Agriculture Committee does not waive any jurisdiction it may have over section 309. In addition, I agree to support representation for your Committee during the House-Senate conference on provisions determined to be within your Committee's jurisdiction.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report or the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of the ''Department of Homeland Security Authorization Act for Fiscal Year 2006.''

Sincerely,

CHRISTOPHER COX,
Chairman.

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 13, 2005.

Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, Adams Building, Washington, DC.

DEAR CHAIRMAN COX: I am writing concerning H.R. 1817, the ''Department of Homeland Security Authorization Act for Fiscal Year 2006,'' which the Committee on Homeland Security reported on May 3, 2005. Subsequently, the Committee on Ways and Means received a joint, sequential referral on the bill for a period not ending later than May 13, 2005.

As you know, the Committee on Ways and Means has jurisdiction over trade and customs revenue functions. A range of provisions in H.R. 1817 affects the Committee's jurisdiction, including: authorization language for the Department of Homeland Security, a required review of trade documents that accompany crossborder shipments, a required plan to reduce disparities in customs processing at major airports, a requirement that certain recommendations of a commercial advisory committee representing the trade community be embodied in new regulations, a requirement of a study of the potential merger of the Department of Homeland Security bureau implementing most customs revenue functions with the bureau charged with immigration enforcement, and authorization of a program that would merge security and customs revenue inspection equipment and requirements.

I am pleased to acknowledge the agreement, outlined in the attached chart, between our Committees to address various issues, including changes you will include in the Manager's Amendment to the bill. Thus, in order to expedite this legislation for floor consideration, the Ways and Means Committee agrees to forgo action on this bill based on the agreement reached by our Committees and that no other provisions affecting the jurisdiction of the Ways and Means Committee are included in the Manager's Amendment. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation. In addition, I would appreciate if you would share with my staff copies of the amendments when they are made available to the Homeland Security Committee staff.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 1817, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

Attachment.

WAYS AND MEANS AMENDMENTS AND LEGISLATIVE HISTORY RELATED TO HOMELAND SECURITY AUTHORIZATION BILL

Issue	HSC and W&M agreed changes
Sec. 103—CBP Authorization (includes amount in Customs Reauthorization bill passed by the House in 2004, along with additions identified by W&M and HSC).	Insert CBP Authorization number—$6,926,424,722 in the Manager's Amendment. Number may be adjusted, but any change would be fully cleared between HSC and Ways and Means.
Sec. 201(b)—Annual cross-cutting analysis of proposed funding for DHS programs.	Delete 201 (b)(1)(D) and replace with ''(1)(D) To facilitate trade and commerce;'' Add 201 (b)(1)(E)—''To carry out other important functions of the agencies and subdivisions within the Department not specifically noted above.'' Under 201 (b)(2)—Delete the following language: ''for functions that are both related directly and not related directly to homeland security'' and add: ''for functions that would address more than one of the mission areas listed in (b)(1)(A) through (E) of this subsection.''
	Rewrite 201(b)(3)(F) to state ''(F) Screening cargo to identify and segregate shipments at high risk for compromise by terrorists or terrorist weapons,'' rather than ''screening cargo to identify and segregate high-risk shipments.''
Sec. 306—Security of Maritime Cargo Containers (Sanchez Amendment)	Amend Sec. 306(a) to read: ''(a) STANDARDS AND REGULATIONS—

WAYS AND MEANS AMENDMENTS AND LEGISLATIVE HISTORY RELATED TO HOMELAND SECURITY AUTHORIZATION BILL—Continued

Issue	HSC and W&M agreed changes
	(1) STANDARDS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish standards and procedures for securing maritime cargo containers relating to obligation to seal, recording of seal changes, modal changes, seal placement, ocean carrier seal verification, and addressing seal anomalies. These standards shall include the standards for seals and locks as required under paragraph (3) of subsection (b) of section 70116 of Title 46 U.S.C.
	(2) REGULATIONS.—No later than 90 days after completion of the requirements in subsection (a), the Secretary of Homeland Security shall issue regulations for the security of maritime cargo containers consistent with the standards developed in subsection (a).''
	Amend Sec. 306(b) to read: ''(b) INTERNATIONAL AGREEMENTS.—The Secretary, in consultation with the Department of State, Department of Commerce, Department of the Treasury, Office of the United States Trade Representative, and other appropriate Federal agencies, shall seek to enter into agreements with foreign countries and international organizations to establish standards for the security of maritime cargo containers moving within the intermodal transportation system that, to the maximum extent practicable, meet the requirements of subsection (a).''
	Amend Sec. 306(c) to read ''(c) CONTAINER TARGETING STRATEGY.—STRATEGY.—The Secretary shall develop a strategy to improve the ability of the Department of Homeland Security to use advance cargo information to identify anomalies in such information to determine whether such cargo poses a security risk. The strategy shall include a method of contacting shippers to verify or explain any anomalies discovered in such information.''
	Will include acknowledgement in legislative history that ''It is intended that the advance cargo information referred to in Section 306(c) should be provided to the government by the party that has the most direct knowledge of that information consistent with Public Law 107–210 Section 343(a)(3)(B).''
	Amend Section 306(d) to read: ''(d) CONTAINER SECURITY DEMONSTRATION PROGRAM.—(1) PROGRAM.—The Secretary is authorized to establish and carry out a demonstration program that integrates radiation detection equipment with other types of non-intrusive inspection equipment at an appropriate United States seaport, as determined by the Secretary.
	(2) REQUIREMENT.—The demonstration program shall also evaluate ways to strengthen the capability of Department of Homeland Security personnel to analyze cargo inspection data and ways to improve the transmission of inspection data between appropriate entities within the Department of Homeland Security.''
	Amend Section 306(e) to read: ''(e) COORDINATION AND CONSOLIDATION OF CONTAINER SECURITY PROGRAMS.—The Secretary shall coordinate all programs that enhance the security of maritime cargo, and, to the extent practicable, consolidate Operation Safe Commerce, the Smart Box Initiative, and similar programs that evaluate security enhancements for maritime cargo containers, to achieve enhanced coordination and efficiency. The Secretary shall report to the appropriate Congressional committees before consolidating any program mentioned in this subsection.''
	Add new Sec. New Section 306(f): ''DEFINITION.—In this section, the tenn 'appropriate congressional committees' means appropriate Congressional Committees as defined in the Homeland Security Act of 2002.''
Sec. 401—Study by Sec. of DHS on Organization of DHS	Section 401(b)(l)—delete ''to the Committee on Homeland Security of the House of DHS on Organization of Representatives and the Committee on Homeland Security and Government Affairs of the Senate'' and replace with ''to the appropriate Congressional Committees as defined in the Homeland Security Act of 2002.''
Section 402—GAO Report on DHS Organization	Insert at the end of this section: ''The report shall be submitted to the appropriate Congressional committees as defined in the Homeland Security Act of 2002.''
See. 403—Plan for Establishing Consolidated and Colocated Regional Offices	If Sec. 403, or a similar provision is included in the bill, amend that section by adding at the end of the section: ''In developing the plan, the Secretary shall ensure that the plan does not compromise the uniform and consistent implementation and application of laws, policies and procedures related to customs processing operations.''
Sec. 404—Plan to Reduce Wait Times	Amend Sec. 404(2) to include ''passenger'' following ''customs''.
Ways and Means Customs Bill	In addition to the authorization for CBP, include all other Customs sections of HR 4418 as passed by the House that were not already enacted as part of other laws—Secs. 102, 104, 124, and 125.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, May 13, 2005.

Hon. WILLIAM THOMAS,
Chairman, Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Ways and Means Committee's jurisdictional interest in H.R. 1817, the ''The Department of Homeland Security Authorization Act for Fiscal Year 2006.'' I appreciate your willingness to forgo action on this bill, in order to expedite this legislation for floor consideration. I agree that, by forgoing further action on the bill, the Committee on Ways and Means does not waive any jurisdiction it has over provisions within H.R. 1817 and the Manager's amendment. This is being done with the understanding that it does not in any way prejudice the Ways and Means Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation. We will also share with you copies of any amendments as they are made available to us.

As you have requested, I will include a copy of your letter and this response as part of the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of H.R. 1817.

Sincerely,

CHRISTOPHER COX,
Chairman.

COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 2, 2005.

Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, House of Representatives, Adams Building, Library of Congress, Washington, DC.

DEAR MR. CHAIRMAN: On April 27, 2005, the Committee on Homeland Security ordered reported a committee print, the ''Department of Homeland Security Authorization Act for Fiscal Year 2006.'' This bill contains provisions that fall within the jurisdiction of the Committee on Armed Services, including: section 222 (relating to information collection requirements and priorities) and section 302(b) (establishing a working group relating to military technology). Recognizing your interest in bringing this legislation before the House quickly, the Committee on Armed Services agrees not to seek a sequential referral of the bill. By agreeing not to seek a sequential referral, the Committee does not waive its jurisdiction over these provisions or any other provisions of the bill that may fall within its jurisdiction. The Committee also reserves its right to seek conferees on any provisions within its jurisdiction considered in the House-Senate conference, and asks for your support in being accorded such conferees.

Please include this letter as part of the report, if any, on the Department of Homeland Security Act for Fiscal Year 2006 or as part of the Congressional Record during consideration of this bill by the House.

Sincerely,

DUNCAN HUNTER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, May 2, 2005.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Armed Services Committee's jurisdictional interest in Section 222 and the working group on transfer of military technologies established under Section 302(b) of the ''Department of Homeland Security Authorization Act for Fiscal Year 2006.'' I appreciate your willingness not to seek a sequential referral in order to expedite proceedings on this legislation. I agree that, by not exercising your right to request a referral, the Armed Services Committee does not waive any jurisdiction it may have over the relevant provisions of Sections 222 and 302(b). In addition, I agree to support representation for your Committee during the House-Senate conference on any provisions determined to be within your Committee's jurisdiction.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report and the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of the ''Department of Homeland Security Authorization Act for Fiscal Year 2006.''

Sincerely,

CHRISTOPHER COX,
Chairman.

HOUSE OF REPRESENTATIVES, PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, May 16, 2005.

Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In recognition of the importance of expediting the passage of H.R. 1817, the ''Department of Homeland Security Authorization Act for Fiscal Year 2006,'' the Permanent Select Committee on Intelligence hereby waives further consideration of the bill. The Committee has jurisdictional interests in H.R. 1817, including but not limited to intelligence activities within the Department of Homeland Security authorized within the National Intelligence Program.

The Committee takes this action only with the understanding that this procedural route should not be construed to prejudice the House Permanent Select Committee on Intelligence's jurisdictional interest over this bill or any similar bill and will not be considered as precedent for consideration of matters of jurisdictional interest to the Committee in the future. In addition, the Permanent Select Committee on Intelligence reserves the possibility of seeking conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation.

Finally, I would ask that you include a copy of our exchange of letters on this matter in the Congressional Record during the House debate on H.R. 1817. I appreciate the constructive work between our committees on this matter and thank you for your consideration.

Sincerely,

PETER HOEKSTRA,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, May 16, 2005.

Hon. PETER HOEKSTRA,
Chairman, Permanent Select Committee on Intelligence, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Intelligence Committee's jurisdictional interest in H.R. 1817, the ''The Department of Homeland Security Authorization Act for Fiscal Year 2006.'' I appreciate your willingness to waive further consideration of the bill in order to expedite this legislation for floor consideration: I agree that by waiving further consideration, the Intelligence Committee does not waive any jurisdiction it may have over provisions of the bill, including those relating to intelligence activities of the Department of Homeland Security authorized within the National Intelligence Program.

As you have requested, I will include a copy of your letter and this response as part of the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of H.R. 1817.

Sincerely,

CHRISTOPHER COX,
Chairman

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. JACKSON-LEE of Texas (at the request of Ms. PELOSI) for today on account of a family medical emergency.

Mr. LATOURETTE (at the request of Mr. DELAY) for today and the balance of the week on account of a family emergency.

Mr. RYAN of Wisconsin (at the request of Mr. DELAY) for today until 4:30 p.m. on account of traveling with the President.

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. SCHIFF) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. PRICE of North Carolina, for 5 minutes, today.

Mr. ETHERIDGE, for 5 minutes, today.

Mr. MILLER of North Carolina, for 5 minutes, today.

Mr. MCINTYRE, for 5 minutes, today.

Mr. WATT, for 5 minutes, today.

Mr. BUTTERFIELD, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, May 26.

Mr. WELDON of Florida, for 5 minutes, May 23.

Mr. DUNCAN, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, May 26.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. GINGREY, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

ADJOURNMENT

Mr. BROWN of Ohio. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until Monday, May 23, 2005, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2017. A letter from the Director, Office of Management and Budget, transmitting a report entitled ''Major Savings and Reforms in the President's 2006 Budget''; to the Committee on Appropriations.

2018. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Richard V. Reynolds, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

2019. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Brian A. Arnold, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

2020. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of the enclosed list of officers to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

2021. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of the enclosed list of officers to wear the insignia of the next higher grade in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

2022. A letter from the Secretary of the Army, Department of Defense, transmitting notification of the Army's determination that reportable increases have occurred in the Program Acquisition Unit Cost (PAUC) for the Chemical Demilitarization (CHEM DEMIL) Program; to the Committee on Armed Services.

2023. A letter from the Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting a report on the proposed test and evaulation (T&E) budgets that are not certified by the Director of the Defense Test Resource Management Center (TRMC) to be adequate for FY 2006, pursuant to 10 U.S.C. 196 Public Law 107–314, section 232; to the Committee on Armed Services.

2024. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting a report describing the Department's corrosion prevention control and mitigation efforts and planned improvements, as requested by the House of Representatives Report of the Committee on Appropriations on the Department of Defense Appropriations Bill for FY 2005, Pub. L. 108-553 (H.R. 4613); to the Committee on Armed Services.

2025. A letter from the Chair, Foreign Exchange Committee, transmitting the Committee's 2004 Annual Report; to the Committee on Financial Services.

2026. A letter from the Chief Financial Officer, Department of Education, transmitting the full-color version of the Department's Fiscal Year 2004 Performance and Accountability Report; to the Committee on Education and the Workforce.

2027. A letter from the Secretary, Department of Health and Human Services, transmitting a report entitled ''Performance Improvement 2005: Evaluation Activities of the U.S. Department of Health and Human Services,'' pursuant to Section 241(b) of the Public Health Service (PHS) Act, as amended by the Preventive Health Amendments of 1993, summarizing the findings of the evaluations of PHS programs authorized under Section 241(a); to the Committee on Energy and Commerce.

2028. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Pakistan for defense articles and services (Transmittal No. 05-18), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2029. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Pakistan for defense articles and services (Transmittal No. 05-19), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2030. A letter from the Secretary, Department of State, transmitting a copy of the Department's ''Country Reports on Terrorism: 2004,'' pursuant to 22 U.S.C. 2656f; to the Committee on International Relations.

2031. A letter from the Assistant Administrator, Bureau for Legislative and Public Affairs, Agency for International Development, transmitting a report on economic conditions in Egypt 2004, pursuant to 22 U.S.C. 2346 note; to the Committee on International Relations.

2032. A letter from the Secretary, Department of the Treasury, transmitting a six-month periodic report on the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997, 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; to the Committee on International Relations.

2033. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the Department's intent to obligate Nonproliferation and Disarmament Fund (NDF) assistance for additional projects, pursuant to Public Law 108–447, section 515; to the Committee on International Relations.

2034. A letter from the Chairman, Christopher Columbus Fellowship Foundation, transmitting pursuant to the Accountability of Tax Dollars Act, the Foundation's Form and Content Reports for the second quarter of FY 2005 as prepared by the U.S. General Services Administration; to the Committee on Government Reform.

2035. A letter from the Acting Director, Office of Personnel Management, transmitting the Office's report entitled, ''Federal Student Loan Repayment Program FY 2004,'' pursuant to 5 U.S.C. 5379(a)(1)(B) Public Law 106–398, section 1122; to the Committee on Government Reform.

2036. A letter from the Secretary, Department of the Interior, transmitting the annual report entitled, ''Outer Continental Shelf Lease Sales: Evaluation of Bidding Results'' for Fiscal Year 2004, pursuant to 43 U.S.C. 1337(a)(9); to the Committee on Resources.

2037. A letter from the Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Establishment of an Additional Manatee Protection Area in Lee County, Florida (RIN: 1018-AT65) received April 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2038. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 050305C] received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2039. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Norteastern United States; Recordkeeping and Reporting Requirements; Regulatory Amendment to Modify Seafood Dealer Reporting Requirements [Docket No. 050216041-5105-02; I.D. 020705C] (RIN: 0648-AS87) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2040. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 042105C] received May 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2041. A letter from the Office of Protected Resources, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Taking of Marine Mammals Incidental to Commercial Fishing Operations; Tuna Purse Seine Vessels in the Eastern Tropical Pacific Ocean (ETP) received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2042. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off Western Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Specifications and Management Measures; Inseason Adjustments; Pacific Halibut Fisheries; Corrections [Docket No. 040830250-5062-03; I.D. 042205C] received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2043. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer [Docket No. 041110317-4364-02; I.D. 041805C] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2044. A letter from the Acting DIrector, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Atlantic Mackeral, Squid, and Butterfish Fisheries; Closure of the Quarter II Fishery for Loligo Squid [Docket No. 041221358-5065-02; I.D. 042005B] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2045. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/''Other Flatfish'' Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area [Docket No. 041126332-5039-02; I.D. 042105B] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2046. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fishery Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Specifications and Management Measures; Inseason Adjustments; Corrections [Docket No. 040830250-5062-03; I.D. 032205B] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2047. A letter from the Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting a reevaluation of the report of the Army Corps of Engineers, dated December 30, 2003, describing a viable alternative to a system of groins for providing shoreline erosion control as a storm damage reduction measure for the Silver Strand shoreline at Imperial Beach, California, originally authorized by Section 101 of the Rivers and Harbors Act of 1958; to the Committee on Transportation and Infrastructure.

2048. A letter from the Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting a reevalution of a study to determine the feasibility of modifying the authorized Hamilton Airfield, California project to include adjacent properties on San Pablo Bay, Marin County, California; to the Committee on Transportation and Infrastructure.

2049. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company (GE) CF6-45 and CF6-50 Series Turbofan Engines [Docket No. FAA-2005-20932; Directorate Identifier 2005-NE-11-AD; Amendment 39-14056; AD 2005-08-04] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2050. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes [Docket No. FAA-2004-19766; Directorate Identifier 2002-NM-161-AD; Amendment 39-14057; AD 2005-08-05] received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2051. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747-200B, -200C, -200F, and -400F Series Airplanes [Docket No. FAA-2005-20136; Directorate Identifier 2004-NM-185-AD; Amendment 39-14061; AD 2005-08-09] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2052. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737-600, -700, and -800 Series Airplanes [Docket No. FAA-2004-19810; Directorate Identifier 2004-NM-119-AD; Amendment 39-14062; AD 2005-08-10] received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2053. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB SF 340A and SAAB 340B Series Airplanes [Docket No. 2003-NM-278-AD; Amendment 39-14063; AD 2005-08-11] received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2054. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aviointeriors S.p.A. Series 312 Seats [Docket No. 2000-NE-09-AD; Amendment 39-14052; AD 2005-07-27] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2055. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747-100, -100B, 100B SUD, -200B, -200C, -200F, and -300 Series Airplanes; and Model 747SP and 747SR Series Airplanes [Docket No. FAA-2005-20915; Directorate Identifier 2005-NM-042-AD; Amendment 39-14053; AD 2005-08-01] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2056. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model Falcon 10 Series Airplanes [Docket No. FAA-2005-20884; Directorate Identifier 2005-NM-051-AD; Amendment 39-14048; AD 2005-07-23] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2057. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 777-200 and -300 Series Airplanes Equipped with Rolls Royce Model RB211 TRENT 800 Engines [Docket No. FAA-2005-20885; Directorate Identifier 2005-NM-050-AD; Amendment 39-14049; AD 2005-07-24] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2058. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes; Model A300 B4-600, A300 B4-600R, A300 C4-605R Variant F, and A300 F4-600R (Collectively Called A300-600) Series Airplanes [Docket No. FAA-2004-19227; Directorate Identifier 2003-NM-95-AD; Amendment 39-14050; AD 2005-07-25] (RIN: 2120-AA64) received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2059. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes [Docket No. FAA-2005-20244; Directorate Identifier 2004-NM-204-AD; Amendment 39-14051; AD 2005-07-26] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2060. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; CENTRAIR 101 Series Gliders [Docket No. FAA-2004-19616; Directorate Identifier 2004-CE-38-AD; Amendment 39-14058; AD 2005-08-06] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2061. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model BAe 146 and Model Avro 146-RJ Series Airplanes [Docket No. FAA-2004-19757; Directorate Identifier 2001-NM-273-AD; Amendment 39-14024; AD 2005-06-14] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2062. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Cessna Model 680 Airplanes [Docket No. FAA-2005-20916; Directorate Identifier 2005-NM-027-AD; Amendment 39-14055; AD 2005-08-03] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2063. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. FAA-2004-19176; Directorate Identifier 2003-NM-36-AD; Amendment 39-14054; AD 2005-08-02] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2064. A letter from the Secretary, Department of Health and Human Services, transmitting a report entitled, ''Implementation of the Medicare Prescription Drug Benefit,'' pursuant to Public Law 108–173, section 1860–42(d); jointly to the Committees on Energy and Commerce and Ways and Means.

2065. A letter from the Secretary, Department of Health and Human Services, transmitting a report that ''makes recommendations regarding methods of providing benefits under . . . Part D . . . for outpatient prescription drugs for which benefits are provided under Part B,'' pursuant to Public Law 108–173, section 1860D–42(c); jointly to the Committees on Energy and Commerce and Ways and Means.

2066. A letter from the Chief Counsel, Foreign Claims Settlement Commission of the United States, Department of Justice, transmitting the Commission's 2004 Annual Report on operations under the War Claims Act of 1948, as amended, pursuant to 50 U.S.C. app. 2008 and 22 U.S.C. 1622a; jointly to the Committees on International Relations and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BUYER: Committee on Veterans' Affairs. H.R. 2046. A bill to amend the Servicemembers Civil Relief Act to limit premium increases on reinstated health insurance on servicemembers who are released from active military service, and for other purposes; with an amendment (Rept. 109–88). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SHAW:

H.R. 2473. A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina (for himself, Mr. BROWN of South Carolina, Mr. MILLER of Florida, Mr. NORWOOD, Mr. FOLEY, and Ms. ROS-LEHTINEN):

H.R. 2474. A bill to amend the Internal Revenue Code of 1986 to provide a nonrefundable personal credit to individuals who donate certain life-saving organs; 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. HOEKSTRA:

H.R. 2475. A bill to authorize appropriations for fiscal year 2006 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. ABERCROMBIE:

H.R. 2476. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income gain on the sale of certain residential leased-fee interests to holders of the leasehold rights; to the Committee on Ways and Means.

By Mr. BLUMENAUER:

H.R. 2477. A bill to suspend temporarily the duty on certain bicycle parts; to the Committee on Ways and Means.

By Mr. BLUMENAUER:

H.R. 2478. A bill to suspend temporarily the duty on certain bicycle parts; to the Committee on Ways and Means.

By Mr. BLUMENAUER:

H.R. 2479. A bill to suspend temporarily the duty on certain bicycle parts; to the Committee on Ways and Means.

By Mr. BLUMENAUER:

H.R. 2480. A bill to suspend temporarily the duty on certain bicycle parts; to the Committee on Ways and Means.

By Mr. BLUMENAUER:

H.R. 2481. A bill to suspend temporarily the duty on certain bicycle parts; to the Committee on Ways and Means.

By Mr. BLUMENAUER:

H.R. 2482. A bill to suspend temporarily the duty on certain bicycle parts; to the Committee on Ways and Means.

By Mr. BLUMENAUER:

H.R. 2483. A bill to suspend temporarily the duty on certain bicycle parts; to the Committee on Ways and Means.

By Mr. BLUNT (for himself, Mr. KIRK, Mr. SIMMONS, Mr. HAYES, Mr. CANTOR, Mr. GERLACH, Mr. GRAVES, Mr. LARSEN of Washington, Mr. MILLER of Florida, Mr. BRADY of Texas, Mr. SODREL, and Mr. REICHERT):

H.R. 2484. A bill to improve benefits for members of the National Guard and Reserve to recognize their service to the United States and to encourage the recruitment and retention of National Guard and Reserve personnel, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, 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. BURTON of Indiana (for himself and Mr. PALLONE):

H.R. 2485. A bill to ensure that the goals of the Dietary Supplement Health and Education Act of 1994 are met by authorizing appropriations to fully enforce and implement such Act and the amendments made by such Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BURTON of Indiana (for himself, Mr. PALLONE, Mr. PAUL, Mr. TERRY, and Mr. GERLACH):

H.R. 2486. A bill to amend the Internal Revenue Code of 1986 to provide that amounts paid for foods for special dietary use, dietary supplements, or medical foods shall be treated as medical expenses; to the Committee on Ways and Means.

By Mr. CARDIN:

H.R. 2487. A bill to amend title XVIII of the Social Security Act, as amended by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide additional beneficiary protections; 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. CARNAHAN:

H.R. 2488. A bill to promote State historic tax credits; to the Committee on Ways and Means.

By Mr. COOPER (for himself, Mr. SHAYS, and Mr. VAN HOLLEN):

H.R. 2489. A bill to amend the Inspector General Act of 1978 to enhance the independence of the Inspectors General, to create a Council of the Inspectors General on Integrity and Efficiency, and for other purposes; to the Committee on Government Reform.

By Mr. DENT (for himself, Mr. BRADY of Pennsylvania, Mr. FATTAH, Mr. ENGLISH of Pennsylvania, Ms. HART, Mr. PETERSON of Pennsylvania, Mr. GERLACH, Mr. WELDON of Pennsylvania, Mr. FITZPATRICK of Pennsylvania, Mr. SHUSTER, Mr. SHERWOOD, Mr. KANJORSKI, Mr. MURTHA, Ms. SCHWARTZ of Pennsylvania, Mr. DOYLE, Mr. PITTS, Mr. HOLDEN, Mr. MURPHY, and Mr. PLATTS):

H.R. 2490. A bill to designate the facility of the United States Postal Service located at 442 West Hamilton Street, Allentown, Pennsylvania, as the ''Mayor Joseph S. Daddona Memorial Post Office''; to the Committee on Government Reform.

By Mr. GILLMOR (for himself, Mr. ROGERS of Michigan, Mr. DINGELL, Mr. STUPAK, and Mr. UPTON):

H.R. 2491. A bill to amend the Solid Waste Disposal Act to authorize States to restrict receipt of foreign municipal solid waste and implement the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HAYES:

H.R. 2492. A bill to extend the temporary suspension of duty on Crotonic Acid; to the Committee on Ways and Means.

By Mr. HAYES:

H.R. 2493. A bill to suspend temporarily the duty on Glyoxylic Acid 50 %; to the Committee on Ways and Means.

By Mr. HAYES:

H.R. 2494. A bill to suspend temporarily the duty on Chloroacetic acid, ethyl ester; to the Committee on Ways and Means.

By Mr. HAYES:

H.R. 2495. A bill to suspend temporarily the duty on Chloroacetic Acid, Sodium Salt; to the Committee on Ways and Means.

By Mr. HAYES:

H.R. 2496. A bill to extend the temporary suspension of duty on 3,6,9-Trioxaundecanedioic acid; to the Committee on Ways and Means.

By Mr. HOLDEN:

H.R. 2497. A bill to extend the temporary suspension of duty on Acetamiprid Technical; to the Committee on Ways and Means.

By Mr. HULSHOF (for himself, Mr. POMEROY, Mr. NUSSLE, and Mr. LEWIS of Kentucky):

H.R. 2498. A bill to amend the Internal Revenue Code of 1986 to extend the tax incentives for the use of biodiesel through 2010; to the Committee on Ways and Means.

By Mrs. MALONEY (for herself, Mr. KING of New York, Mr. ISRAEL, Mr. FOSSELLA, Mrs. LOWEY, Mr. TOWNS, Mr. ACKERMAN, Mr. OWENS, Mr. HINCHEY, Mr. SERRANO, and Mrs. MCCARTHY):

H.R. 2499. A bill to provide that members of the National Guard who served in the counties declared Federal disasters areas in response to the September 11, 2001, terrorist attacks on the United States, and who served under State duty so that they could immediately assist in the response to the terrorist attacks should have that service counted as Federal active duty for purposes of military retirement credit under chapter 1223 of title 10, United States Code; to the Committee on Armed Services.

By Mr. MARKEY:

H.R. 2500. A bill to restore the jurisdiction of the Consumer Product Safety Commission over amusement park rides which are at a fixed site, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MCCRERY:

H.R. 2501. A bill to suspend temporarily the duty on Cyclopropanecarboxylic acid, 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-imethyl-,(2-meth yl(1,1′-biphenyl) -3-yl)methyl ester, (z)-; to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 2502. A bill to suspend temporarily the duty on Phosphonic acid (2-chloroethyl) (Ethephon); to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 2503. A bill to suspend the duty on Iprodione; to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 2504. A bill to suspend temporarily the duty on 2-Cyclohexen-1-one, and 2-(1-(((3-chloro-2- propenyl)oxy)imino) propyl)-5-(2-(ethylthio) propyl)-3-hydroxy (Clethodim); to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 2505. A bill to suspend temporarily the duty on Benzoic acid, o- and ((3-(4,6-dimethyl-2-pyrimidinyl)-ureido)sulfonyl)-, methylester (Sulfometuron methyl); to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 2506. A bill to suspend temporarily the duty on Cyclopropanecarboxylic acid, 3-(2,2-Dichlorovinyl)-2,2-dimethyl-, 3-phenoxybenzyl ester, (+-)-,(cis,trans)-; to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 2507. A bill to suspend temporarily the duty on Benzoic acid, 2-(((((4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino)- carbonyl)amino)sulfonyl)-, methyl ester; to the Committee on Ways and Means.

By Mr. GEORGE MILLER of California (for himself, Mr. DAVIS of Illinois, Mr. GRIJALVA, Mr. HOLT, Mr. VAN HOLLEN, Mr. PAYNE, Mrs. MCCARTHY, Mr. RYAN of Ohio, Mr. OWENS, Mr. HINOJOSA, Mr. KILDEE, Mr. STARK, Mr. KENNEDY of Rhode Island, Mr. CONYERS, Mr. WEXLER, and Ms. WOOLSEY):

H.R. 2508. A bill to amend the Higher Education Act of 1965 to improve the ability of foster care youths to attend and succeed in higher education; to the Committee on Education and the Workforce.

By Ms. NORTON (for herself, Mr. MORAN of Virginia, Mr. TOM DAVIS of Virginia, Mr. GRIJALVA, Mr. WYNN, Mr. VAN HOLLEN, Mr. BRADY of Pennsylvania, and Mr. MARKEY):

H.R. 2509. A bill to amend the Federal Water Pollution Control Act and the Water Resources Development Act of 1992 to provide for the restoration, protection, and enhancement of the environmental integrity and social and economic benefits of the Anacostia Watershed in the State of Maryland and the District of Columbia; to the Committee on Transportation and Infrastructure.

By Mr. PALLONE:

H.R. 2510. A bill to ensure that the goals of the Dietary Supplement Health and Education Act of 1994 are met by authorizing appropriations to fully enforce and implement such Act and the amendments made by such Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PAUL (for himself, Mr. HOLT, Ms. SLAUGHTER, and Ms. HERSETH):

H.R. 2511. A bill to postpone the 2005 round of defense base closure and realignment until the completion of certain specified activities by the Secretary of Defense and the Secretary of Homeland Security; to the Committee on Armed Services.

By Mr. REGULA (for himself, Mr. MARKEY, and Mr. GILLMOR):

H.R. 2512. A bill to provide for the establishment of a Digital Opportunity Investment Trust; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RYUN of Kansas (for himself and Mr. FEENEY):

H.R. 2513. A bill to amend the Immigration and Nationality Act to prescribe the oath or affirmation of renunciation and allegiance required to be naturalized as a citizen of the United States; to the Committee on the Judiciary.

By Mr. SIMPSON:

H.R. 2514. A bill to promote the economic development and recreational use of National Forest System lands and other public lands in central Idaho, to designate the Boulder-White Cloud Management Area to ensure the continued management of certain National Forest System lands and Bureau of Land Management lands for recreational and grazing use and conservation and resource protection, to add certain National Forest System lands and Bureau of Land Management lands in central Idaho to the National Wilderness Preservation System, and for other purposes; to the Committee on Resources.

By Mr. STRICKLAND:

H.R. 2515. A bill to authorize an annual appropriation of $10,000,000 for mental health courts through fiscal year 2011; to the Committee on the Judiciary.

By Mr. SWEENEY:

H.R. 2516. A bill to establish standards for the testing of prohibited substances and methods for certain professional baseball, basketball, football, and hockey players; to the Committee on Energy and Commerce.

By Ms. VELÁZQUEZ (for herself, Mr. SERRANO, Mr. OWENS, Mr. VAN HOLLEN, and Mr. MORAN of Virginia):

H.R. 2517. A bill to amend chapters 83 and 84 of title 5, United States Code, to provide for the indexation of deferred annuities; to provide that a survivor annuity be provided to the widow or widower of a former employee who dies after separating from Government service with title to a deferred annuity under the Civil Service Retirement System but before establishing a valid claim therefor, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOOZMAN (for himself and Ms. HERSETH):

H. Con. Res. 159. Concurrent resolution recognizing the sacrifices being made by the families of members of the Armed Forces and supporting the designation of a week as National Military Families Week; to the Committee on Armed Services.

By Mr. DAVIS of Illinois (for himself, Mr. BOSWELL, Mr. OWENS, Ms. CORRINE BROWN of Florida, Ms. KILPATRICK of Michigan, Mr. HASTINGS of Florida, Mr. PAYNE, Mr. BUTTERFIELD, Mr. VAN HOLLEN, Mr. MCDERMOTT, Mr. WATT, Mrs. CHRISTENSEN, Mr. DOGGETT, Mr. GRIJALVA, Mrs. JONES of Ohio, and Mr. HONDA):

H. Con. Res. 160. Concurrent resolution recognizing the historical significance of Juneteenth Independence Day, and expressing the sense of Congress that history should be regarded as a means for understanding the past and solving the challenges of the future; to the Committee on Government Reform.

By Mr. DAVIS of Illinois:

H. Con. Res. 161. Concurrent resolution authorizing the use of the Capitol Grounds for an event to commemorate the 10th Anniversary of the Million Man March; to the Committee on Transportation and Infrastructure.

By Mr. SAXTON (for himself, Mr. MENENDEZ, and Mr. MCCOTTER):

H. Con. Res. 162. Concurrent resolution expressing the sense of Congress that the ongoing nuclear efforts of the Islamic Republic of Iran constitute a threat to the national security of the United States and to international peace and security; to the Committee on International Relations.

By Mr. CONYERS (for himself, Ms. JACKSON-LEE of Texas, Ms. ESHOO, Mr. FILNER, Mr. KUCINICH, Mr. MEEHAN, Mr. PASCRELL, and Mr. SERRANO):

H. Res. 288. A resolution expressing the sense of the House of Representatives condemning bigotry and religious intolerance, and recognizing that holy books of every religion should be treated with dignity and respect; to the Committee on the Judiciary.

By Mr. DAVIS of Illinois (for himself, Mr. BILIRAKIS, Mr. CAPUANO, Mr. BONILLA, and Mr. BRADLEY of New Hampshire):

H. Res. 289. A resolution supporting the goals and ideals of National Health Center Week in order to raise awareness of health services provided by community, migrant, public housing, and homeless health centers, and for other purposes; to the Committee on Government Reform.

By Mrs. MALONEY (for herself, Mr. BILIRAKIS, Mr. PALLONE, Mr. PAYNE, Mr. FOLEY, Ms. NORTON, Ms. WATSON, Mr. CROWLEY, and Mr. MCGOVERN):

H. Res. 290. A resolution recognizing and appreciating the historical significance and the heroic human endeavor and sacrifice of the people of Crete during World War II and commending the PanCretan Association of America; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. SHUSTER.
H.R. 22: Mr. SESSIONS, Mr. WILSON of South Carolina, and Mr. THOMPSON of California.
H.R. 25: Mr. HEFLEY.
H.R. 36: Mr. LATHAM.
H.R. 63: Mrs. LOWEY.
H.R. 65: Mr. TIBERI.
H.R. 98: Mr. HINOJOSA.
H.R. 215: Mr. KILDEE.
H.R. 284: Mr. CLEAVER and Mr. PRICE of North Carolina.
H.R. 297: Mr. BAIRD and Mr. BILIRAKIS.
H.R. 302: Mr. DAVIS of Illinois and Mrs. LOWEY.
H.R. 303: Mr. BOREN, Mr. DELAHUNT, Mr. GUTIERREZ, Ms. JACKSON-LEE of Texas, Mr. MURTHA, and Mr. HINCHEY.
H.R. 311: Mr. BRADY of Pennsylvania.
H.R. 312: Mr. UDALL of Colorado, Mr. HINOJOSA, Mrs. JONES of Ohio, and Mr. KUCINICH.
H.R. 313: Mr. BONNER.
H.R. 314: Mr. BONNER.
H.R. 333: Mr. MCGOVERN, Mr. HOLDEN, and Mrs. CHRISTENSEN.
H.R. 363: Mr. SANDERS, Mr. BECERRA, and Mr. CLEAVER.
H.R. 371: Mr. TANNER and Mr. DAVIS of Tennsesee.
H.R. 373: Mr. LARSEN of Washington.
H.R. 389: Mr. ALLEN.
H.R. 398: Mr. PAYNE, Mr. SHERMAN, Mr. FARR, Ms. WATSON, Mr. GRIJALVA, Mr. ANDREWS, Ms. WASSERMAN SCHULTZ, and Mr. BROWN of Ohio.
H.R. 438: Mr. COSTA.
H.R. 527: Mr. SHUSTER.
H.R. 552: Mr. INGLIS of South Carolina
H.R. 559: Mr. COSTELLO.
H.R. 583: Mr. BARROW.
H.R. 596: Mr. GALLEGLY and Mr. KING of New York.
H.R. 602: Ms. HARRIS.
H.R. 615: Mr. ADERHOLT.
H.R. 633: Mr. GEORGE MILLER of California.
H.R. 670: Ms. ZOE LOFGREN of Califonria.
H.R. 676: Ms. JACKSON-LEE of Texas, Mr. WAXMAN, and Mr. THOMPSON of Mississippi.
H.R. 688: Mr. BRADLEY of New Hampshire.
H.R. 691: Mr. CARDIN.
H.R. 712: Mr. STUPAK and Mr. BISHOP of Utah.
H.R. 747: Mr. HIGGINS, Mr. KUHL of New York, Mr. BISHOP of Georgia, and Mr. ANDREWS.
H.R. 765: Mrs. WILSON of New Mexico.
H.R. 772: Mr. FRANK of Massachusetts, Mr. CHANDLER, and Mr. BOREN.
H.R. 791: Mrs. CAPPS.
H.R. 800: Mr. REICHERT.
H.R. 801: Mrs. JONES of Ohio.
H.R. 815: Mr. BRADLEY of New Hampshire.
H.R. 819: Mr. SOUDER and Mr. MICHAUD.
H.R. 869: Mr. PETERSON of Pennsylvania.
H.R. 887: Mr. BARROW and Mr. HASTINGS of Florida.
H.R. 910: Ms. KAPTUR, Mr. WAXMAN, Mr. HINCHEY, Mr. BISHOP of Georgia, Mr. MCHUGH, Mr. LARSON of Connecticut, and Mr. LANGEVIN.
H.R. 923: Mr. WOLF.
H.R. 930: Mr. NEY, Mr. LEWIS of Georgia, Mr. BURGESS, Mr. TIBERI, Mr. JENKINS, and Mr. CARDOZA.
H.R. 994: Mr. NEY, Mr. ETHERIDGE, Ms. WOOLSEY, Mr. HERGER, Mr. OLVER, Mr. BASS, Mr. SCHIFF, Mr. DOGGETT, Mr. UDALL of Colorado, Mr. RAMSTAD, Mr. RUPPERSBERGER, Mr. WELLER, Mr. ISRAEL, Mr. DEAL of Georgia, Mr. GOODLATTE, Mr. FATTAH, and Mr. EDWARDS.
H.R. 997: Mr. INGLIS of South Carolina and Mr. MCHENRY.
H.R. 998: Mr. STUPAK, Mr. TANNER, Mr. NEAL of Masschusetts, and Mr. RADANOVICH.
H.R. 1071: Mr. MARIO DIAZ-BALART of Florida and Ms. HARMAN.
H.R. 1108: Mr. BRADY of Pennsylvania and Mr. KILDEE.
H.R. 1120: Ms. SLAUGHTER, Mr. SANDERS, and Mr. HOLT.
H.R. 1131: Mr. PAYNE, Mr. LANTOS, Mr. BOOZMAN, Mr. BRADLEY of New Hampshire, Mr. MCCOTTER, Mr. ENGEL, Mr. MCGOVERN, Mr. RYAN of Wisconsin, Mrs. JO ANN DAVIS of Virginia, Mr. GRIJALVA, Ms. BALDWIN, Mr. LOBIONDO, and Mr. WOLF.
H.R. 1133: Mr. BURTON of Indiana, Mr. HASTINGS of Florida, Mr. CROWLEY, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. MCNULTY.
H.R. 1142: Mr. MCCOTTER.
H.R. 1175: Mr. BARROW.
H.R. 1222: Ms. BALDWIN, Mr. TOWNS, and Mr. BARROW.
H.R. 1223: Mr. MCCOTTER.
H.R. 1227: Mr. FRANK of Massachusetts, Mr. ACKERMAN, Ms. BALDWIN, Mr. SCHIFF, Mr. WAXMAN, and Mr. UDALL of Colorado.
H.R. 1245: Mr. LARSEN of Washington.
H.R. 1246: Mr. LARSON of Connecticut, Mr. GONZALEZ, Mr. KIRK, Mr. LAHOOD, and Mr. GUTIERREZ.
H.R. 1252: Mr. KIRK and Mr. HINOJOSA.
H.R. 1288: Mr. BACA, Mr. UPTON, Mr. PENCE, Ms. HARRIS, and Mr. SIMPSON.
H.R. 1290: Mr. SMITH of New Jersey.
H.R. 1312: Mr. ACKERMAN, Mr. GEORGE MILLER of California, and Ms. ROYBAL-ALLARD.
H.R. 1345: Mr. RYAN of Wisconsin, Mr. PITTS, Mr. ABERCROMBIE, and Mr. HINOJOSA.
H.R. 1352: Mr. MEEK of Florida, Ms. ROYBAL-ALLARD, Mr. BARROW, Mr. NADLER, Mr. THOMPSON of Mississippi, Ms. MCKINNEY, Ms. MCCOLLUM of Minnesota, Mr. MORAN of Virginia, Ms. LEE, Mr. MARKEY, Ms. BEAN, Mr. HIGGINS, Mr. DOGGETT, and Mr. PRICE of North Carolina.
H.R. 1355: Mr. AL GREEN of Texas and Mr. BOREN.
H.R. 1409: Mr. DOGGETT.
H.R. 1415: Mr. CASE and Mrs. MALONEY.
H.R. 1424: Mr. PLATTS, Mr. GORDON, and Mr. BACHUS.
H.R. 1443: Ms. JACKSON-LEE of Texas, Mr. KUCINICH, Mrs. LOWEY, Mr. MOORE of Kansas, and Mr. BRADY of Pennsylvania.
H.R. 1447: Mr. OLVER and Mr. WEXLER.
H.R. 1469: Mr. REHBERG.
H.R. 1474: Mr. UDALL of Colorado.
H.R. 1482: Mr. LIPINSKI.
H.R. 1498: Mr. BROWN of South Carolina and Mr. BARRETT of South Carolina.
H.R. 1499: Mr. FITZPATRICK of Pennsylvania, Mr. HAYES, and Mrs. CAPITO.
H.R. 1505: Mr. BOREN.
H.R. 1538: Mr. ENGEL.
H.R. 1561: Ms. BEAN.
H.R. 1582: Mr. KILDEE, Mr. LATHAM, and Mr. TIERNEY.
H.R. 1595: Mr. OWENS, Mr. BERMAN, Ms. ROYBAL-ALLARD, Mr. GONZALEZ, and Mr. MCDERMOTT.
H.R. 1615: Mr. CASE.
H.R. 1634: Mr. MOORE of Kansas, Mr. COX, Ms. ZOE LOFGREN of California, Mr. DOYLE, Mr. SESSIONS, and Mr. YOUNG of Alaska.
H.R. 1636: Ms. ZOE LOFGREN of California.
H.R. 1651: Mr. BAKER, Mr. SKELTON, Mr. TERRY, Mr. CLAY, Mrs. EMERSON, Mr. DEAL of Georgia, Mr. RYUN of Kansas, Mr. MORAN of Kansas, Mr. HULSHOF, Mr. GRAVES, Mr. BONNER, and Mr. BUTTERFIELD.
H.R. 1652: Mr. WAXMAN.
H.R. 1696: Mr. MEEHAN.
H.R. 1697: Ms. LEE, Ms. JACKSON-LEE of Texas, Ms. LINDA T. SÁNCHEZ of California, Ms. MILLENDER-MCDONALD, Mr. BUTTERFIELD, Mr. OWENS, Mr. WAXMAN, Ms. WOOLSEY, Mr. PAYNE, and Mr. BOSWELL.
H.R. 1708: Mr. MCINTYRE, Mrs. DAVIS of California, and Mr. WHITFIELD.
H.R. 1712: Mr. CASE, Mr. GRIJALVA, Mr. TOWNS, and Mr. OWENS.
H.R. 1719: Ms. DEGETTE.
H.R. 1729: Mr. CONWAY.
H.R. 1736: Mr. PITTS and Mr. FORBES.
H.R. 1749: Mr. HEFLEY, Mr. GINGREY, Mr. CALVERT, Mr. LINDER, and Mr. JENKINS.
H.R. 1772: Mr. MILLER of Florida and Mr. SESSIONS.
H.R. 1816: Mr. RYUN of Kansas and Mr. HAYWORTH.
H.R. 1835: Ms. HOOLEY and Mrs. JONES of Ohio.
H.R. 1871: Mr. WOLF, Mr. COX, and Mr. CALVERT.
H.R. 1898: Mrs. WILSON of New Mexico, Mrs. CUBIN, and Mr. LAHOOD.
H.R. 1950: Mrs. JOHNSON of Connecticut and Mr. PLATTS.
H.R. 1951: Mr. ISSA.
H.R. 1957: Mr. CANTOR.
H.R. 1973: Mr. MCDERMOTT.
H.R. 2000: Mr. COSTELLO.
H.R. 2011: Mr. WAXMAN, Mr. CASE, Mr. FARR, and Mr. LANTOS.
H.R. 2014: Mr. CONAWAY and Mr. THOMPSON of Mississippi.
H.R. 2018: Mr. MICHAUD and Mr. SHIMKUS.
H.R. 2034: Mr. LEWIS of Kentucky, Mr. REHBERG, Mr. MCCAUL of Texas, Mr. BOUSTANY, Mr. OTTER, Miss MCMORRIS, Mr. SIMMONS, and Mr. SALAZAR.
H.R. 2046: Mr. WOLF and Ms. BERKLEY.
H.R. 2060: Mr. NADLER, Mr. EDWARDS, Mr. FATTAH, Mr. PAYNE, Ms. DEGETTE, Mr. CASE, Mr. SMITH of Washington, Ms. SLAUGHTER, Mr. MCGOVERN, Mr. RUSH, Mr. WU, Mr. DEFAZIO, Mr. HASTINGS of Florida, Mr. HONDA, Mrs. DAVIS of California, Mr. TIERNEY, Mr. KUCINICH, Ms. PELOSI, Mr. PALLONE, Ms. ROYBAL-ALLARD, Mr. DAVIS of Illinois, Mr. CLYBURN, Mr. WYNN, Ms. KILPATRICK of Michigan, Mr. JEFFERSON, Mr. FARR, Ms. WOOLSEY, Ms. WATSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WEXLER, Mr. ANDREWS, Mr. BLUMENAUER, and Mr. MICA.
H.R. 2097: Mr. YOUNG of Alaska, Mr. WYNN, and Mr. OWENS.
H.R. 2098: Mrs. MCCARTHY, Mr. MCNULTY, Mr. DICKS, and Mr. OWENS.
H.R. 2123: Mr. TERRY, Mr. OSBORNE, Mr. TIBERI, Mr. KUHL of New York, and Ms. FOXX.
H.R. 2131: Mr. SHAW.
H.R. 2134: Mr. SHERMAN.
H.R. 2216: Mr. WOLF.
H.R. 2229: Mr. AKIN and Mr. RENZI.
H.R. 2231: Mr. BASS, Mrs. CAPPS, Mr. VAN HOLLEN, Mrs. MCCARTHY, Mr. WOLF, Ms. ESHOO, Ms. HARMAN, Mr. BERMAN, Mr. WYNN, Mr. MCNULTY, Mr. TERRY, Mr. KILDEE, Mr. DICKS, and Mr. OWENS.
H.R. 2238: Mr. ACKERMAN, Ms. BALDWIN, Ms. BERKLEY, Mr. BOSWELL, Mr. CONYERS, Mr. COOPER, Ms. DELAURO, Mr. EMANUEL, Mr. GONZALEZ, Mr. GORDON, Mr. GENE GREEN of Texas, Mr. HINCHEY, Mr. ISRAEL, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Mrs. JONES of Ohio, Ms. MCCOLLUM of Minnesota, Mr. PASTOR, Mr. RAHALL, Ms. LINDA T. SÁNCHEZ of California, Mr. SERRANO, Mr. SIMMONS, Ms. SLAUGHTER, Mr. STUPAK, Mr. VAN HOLLEN, Mr. WATT, Mr. WEXLER, Ms. WOOLSEY, Mr. WU, Ms. WATSON, Mr. SMITH of New Jersey, Mrs. CAPPS, Mr. ROSS, and Mr. DAVIS of Florida.
H.R. 2248: Mr. KILDEE.
H.R. 2259: Mr. ISRAEL.
H.R. 2317: Mr. RYAN of Ohio, Mr. STUPAK, Mr. KILDEE, Mr. HINCHEY, Mr. MICHAUD, MS. HARMAN, and Mr. OTTER.
H.R. 2326: Mr. HAYES and Mr. ETHERIDGE.
H.R. 2327: Ms. PELOSI, Ms. BERKLEY, Mr. GORDON, Mr. WAXMAN, Mr. HASTINGS of Florida, Mr. CLAY, Mr. HINCHEY, Mr. HOLDEN, Mr. UDALL of Colorado, Mr. HIGGINS, Ms. ESHOO, Mrs. TAUSCHER, Mr. LYNCH, Mr. DEFAZIO, and Mr. CAPUANO.
H.R. 2330: Ms. ROS-LEHTINEN and Ms. PELOSI.
H.R. 2337: Mr. REHBERG.
H.R. 2344: Mr. STRICKLAND.
H.R. 2346: Mr. MCCRERY.

H.R. 2354: Mr. PAUL, Ms. GINNY BROWN-WAITE of Florida, and Mr. ABERCROMBIE.

H.R. 2355: Mr. TANCREDO.

H.R. 2357: Mr. SENSENBRENNER and Mr. MARCHANT.

H.R. 2391: Mr. MICHAUD and Ms. BORDALLO.

H.R. 2423: Ms. JACKSON-LEE of Texas and Ms. PRYCE of Ohio.

H.R. 2427: Mr. UDALL of New Mexico, Mr. MICHAUD, Mr. ALLEN, Mr. SCOTT of Georgia, Mr. BRADLEY of New Hampshire, Mr. CARDOZA, Mr. CROWLEY, Mr. HOLT, Mr. CLEAVER, and Mr. PAUL.

H.R. 2429: Mr. CROWLEY and Mrs. MCCARTHY.

H.R. 2458: Ms. FOXX.

H.J. Res. 10: Mr. ROGERS of Alabama.

H.J. Res. 37: Mr. CLYBURN, Mr. FORD, Mr. CLEAVER, Mr. CUELLAR, Mr. REYES, Ms. MATSUI, Ms. HOOLEY, Mrs. BIGGERT, Mr. KANJORSKI, Mr. SPRATT, and Mr. BISHOP of New York.

H.J. Res. 39: Mr. LEWIS of Kentucky and Mr. RADANOVICH.

H. Con. Res. 40: Mr. GORDON.

H. Con. Res. 89: Ms. WATSON and Mr. SHERMAN.

H. Con. Res. 137: Mr. MENENDEZ.

H. Con. Res. 149: Mr. MARSHALL, Ms. HARMAN, and Mr. MURPHY.

H. Con. Res. 156: Mr. NEY, Mr. MCHENRY, Mr. PITTS, Mr. DOOLITTLE, Mr. FEENEY, Mr. GOODE, Mr. HENSARLING, Mr. SODREL, Mr. GINGREY, Mr. KING of Iowa, Mr. BURTON of Indiana, Mr. PEARCE, Mr. BONILLA, Mr. DELAY, Mr. SMITH of Texas, Mr. GOHMERT, Mr. CONAWAY, Mr. SAM JOHNSON of Texas, Mr. SESSIONS, Mr. MARCHANT, Mr. CULBERSON, Mr. MCCAUL of Texas, Mr. SESSIONS, Mr. MARCHANT, Mr. CULBERSON, Mr. MCCAUL of Texas, and Mr. CARTER.

H. Res. 30: Mr. BROWN of Ohio, Mr. DAVIS of Illinois, Mr. CONYERS, and Mr. NEAL of Massachusetts.

H. Res. 121: Mr. FEENEY, Mr. KING of Iowa, Mr. HENSARLING, Mr. PENCE, Mr. GINGREY, Mr. RYAN of Wisconsin, and Mr. CHOCOLA.

H. Res. 158: Mr. HINCHEY.

H. Res. 166: Mr. PASTOR and Mrs. MCCARTHY.

H. Res. 196: Mr. AL GREEN of Texas and Mr. MENENDEZ.

H. Res. 243: Mr. FITZPATRICK of Pennsylvania.

H. Res. 252: Mr. CONAWAY and Mr. GOODE.

H. Res. 261: Mr. FRANK of Massachusetts, Mr. ENGLISH of Pennsylvania, and Mr. AL GREEN of Texas.

H.R. 272: Mr. LEACH, Ms. WATSON, Ms. HARMAN, Mr. FITZPATRICK of Pennsylvania, Mr. WEXLER, Mr. SHERMAN, Mr. SCHIFF, Mr. MILLER of North Carolina, Mr. MCGOVERN, and Mr. OWENS.

H.R. 273: Mr. KING of New York, Mr. HASTINGS of Florida, and Mr. WALSH.

H.R. 280: Mr. ISSA, Mr. CHABOT, Mr. CALVERT, Mr. SESSIONS, Mr. WAXMAN, Mr. AL GREEN of Texas, Mr. BURTON of Indiana, Mr. BLUNT, Mrs. KELLY, Mr. WAMP, Mr. SERRANO, Mr. RYAN of Ohio, Mr. COBLE, Mr. TIBERI, Mr. YOUNG of Alaska, Mr. FRELINGHUYSEN, Mr. REGULA, Mr. SMITH of New Jersey, Mr. PRICE of Georgia, Mr. FERGUSON, Mr. WALSH, Mr. GALLEGLY, Mr. SULLIVAN, Mr. DOOLITTLE, Mr. ROYCE, Mr. KIRK, Mr. BONNER, Mr. WALDEN of Oregon, Mr. WELLER, Mr. FOLEY, Mr. GILCHREST, Mr. GERLACH, Mr. SIMPSON, Mr. TERRY, Mr. SHAYS, Mr. SIMMONS, Mrs. MCCARTHY, Mr. MCNULTY, Mr. HASTINGS of Florida, Ms. ZOE LOFGREN of California and Mr. HONDA.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 415: Mr. MCGOVERN.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 1, May 18, 2005, by Ms. HOOLEY, on House Resolution 276, was signed by the following Members: Darlene Hooley, Steve Israel, Bennie G. Thompson, Rosa L. DeLauro, Louise McIntosh Slaughter, Artur Davis, Eddie Bernice Johnson, Dennis A. Cardoza, Corrine Brown, Dennis Moore, Tom Udall, Stephen F. Lynch, Allyson Y. Schwartz, Dale E. Kildee, Michael R. McNulty, Martin T. Meehan, Hilda L. Solis, Barbara Lee, G. K. Butterfield, Emanuel Cleaver, Ruben Hinojosa, Doris O. Matsui, Adam B. Schiff, Loretta Sanchez, Debbie Wasserman Schultz, Chris Van Hollen, Brian Higgins, Timothy H. Bishop, Mike Ross, Shelley Berkley, Russ Carnahan, Lynn C. Woolsey, Michael M. Honda, John Barrow, John F. Tierney, Major R. Owens, Gwen Moore, Julia Carson, Nydia M. Velazquez, Stephanie Herseth, Henry Cuellar, Joe Baca, Daniel Lipinski, Carolyn McCarthy, Jose E. Serrano, Sanford D. Bishop, Jr., Solomon P. Ortiz, John W. Olver, Robert A. Brady, Steny H. Hoyer, Gene Green, Sheila Jackson-Lee, James P. McGovern, Kendrick B. Meek, Peter A. DeFazio, Wm. Lacy Clay, Diana DeGette, Lloyd Doggett, Grace F. Napolitano, Benjamin L. Cardin, Carolyn B. Maloney, David R. Obey, Joseph Crowley, Alcee L. Hastings, Diane E. Watson, Ron Kind, Charles A. Gonzalez, Dan Boren, Jim Cooper, Michael H. Michaud, Betty McCollum, Danny K. Davis, Rick Larsen, Lucille Roybal-Allard, Barney Frank, Ellen O. Tauscher, Ted Strickland, Lois Capps, Donald M. Payne, Earl Blumenauer, Thomas H. Allen, Marcy Kaptur, Susan A. Davis, Ben Chandler, Tim Ryan, Sander M. Levin, James P. Moran, Robert C. Scott, Tammy Baldwin, Bernard Sanders, Adam Smith, Nancy Pelosi, Michael F. Doyle, John Conyers, Jr., Ed Case, Carolyn C. Kilpatrick, Albert Russell Wynn, Henry A. Waxman, James R. Langevin, Gary L. Ackerman, Raul M. Grijalva, Tom Lantos, James E. Clyburn, Robert Wexler, Linda T. Sanchez, David Wu, Vic Snyder, James L. Oberstar, Brian Baird, Xavier Becerra, Sherrod Brown, Patrick J. Kennedy, Nick J. Rahall II, Jerrold Nadler, Anna G. Eshoo, Bart Gordon, Maurice D. Hinchey, Leonard L. Boswell, David E. Price, Fortney Pete Stark, Lane Evans, Michael E. Capuano, Bart Stupak, Bob Filner, John D. Dingell, Allen Boyd, Anthony D. Weiner, John T. Salazar, William D. Delahunt, Janice D. Schakowsky, Jim Costa, Tim Holden, George Miller, Howard L. Berman, Charles B. Rangel, Jim Davis, L. A. Dutch Ruppersberger, Rahm Emanuel, Sam Farr, Dennis J. Kucinich, Jim McDermott, Neil Abercrombie, Nita A. Lowey, Paul E. Kanjorski, Al Green, Silvestre Reyes, Eward J. Markey, Ed Pastor, Jim Marshall, Elijah E. Cummings, Robert E. (Bud) Cramer, Jr., and Chaka Fattah.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2361

OFFERED BY: MR. DOOLITTLE

AMENDMENT NO. 20: At the end of the bill (before the short title), add the following new section:

SEC. 4___. None of the funds made available in this Act for the Department of the Interior may be used to implement the first proviso under the heading ''UNITED STATES FISH AND WILDLIFE SERVICE—LAND ACQUISITION''.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *109th* CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, THURSDAY, MAY 19, 2005 *No. 67*

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of grace and glory, open our eyes to the power You provide for all of our challenges. Give us a glimpse of Your ability to do what seems impossible, to exceed what we can request or imagine. Encourage us again with Your promise to never forsake us and to render ineffectual the weapons we face.

Strengthen the Members of this body in their efforts to do good, knowing that in due season You will bring a bountiful harvest. Sustain them during today's challenging labors. Give them more than human wisdom to solve the problems of these momentous times. Provide them with the insight to know what is right and the courage to do it. We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT—Resumed

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session for the consideration of calendar No. 71, which the clerk will report.

The legislative clerk read the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will resume executive session to consider Priscilla Owen to be a U.S. circuit court judge for the Fifth Circuit. We will continue the debate, as we did yesterday, by rotating back and forth between the aisle every 60 minutes. I think this orderly flow of debate will be helpful in terms of scheduling Members' speaking times. It worked well yesterday, and I would expect it to be orderly today as well. I know there is a large number of Senators who have indicated their desire to speak, and we will remain on the nomination to give everyone a chance to fully voice their concerns and their discussion on this very qualified nominee.

I am hopeful that at some point we will be able to schedule a vote on the nomination, and I will update Members later today on the upcoming schedule as it relates to the nomination of Priscilla Owen.

Mr. President, I will have a brief statement—the Democratic leader and I were just discussing our plans—and then he will have a statement, and then at that juncture I believe we will proceed as we set out the time schedule yesterday, alternating back and forth.

Mr. President, we did, yesterday, have a vibrant and spirited debate on the Senate floor. We have been debating a very simple principle—one based on fairness and one grounded in the Constitution. The principle is that judicial nominees, with the support of a majority of Senators, deserve a fair up-or-down vote on the floor of the Senate.

Yesterday, 21 Senators—evenly divided, I believe 11 Republicans and 10 Democrats—debated for over 10 hours on the nomination of Priscilla Owen. We will continue that debate—10 hours yesterday—maybe 20 hours, maybe 30 hours, and we will take as long as it takes for Senators to express their views on this qualified nominee.

But at some point that debate should end and there should be a vote. It makes sense: up or down, ''yes'' or ''no,'' confirm or reject; and then we move on in regular order.

Senators can vote to confirm or reject a nominee. But we should fulfill our constitutional responsibility to give advice and consent by voting up or down.

The nominee before us is Priscilla Owen, a Texas Supreme Court justice nominated to serve on the Fifth Circuit Court of Appeals. I have studied her record. I have had the opportunity to meet with her personally. I believe she would serve our Nation well as a circuit court judge.

Her academic and professional qualifications are outstanding. She graduated near the top of her class in law school, and she once achieved the highest score in the State of Texas on the bar exam. The American Bar Association unanimously rated her ''well qualified,'' its highest possible rating.

Her opponents suggest she is a judicial activist who is out of the mainstream. Her record simply shows that is not true. She was reelected by 84 percent of Texans. Are 84 percent of Texans really out of the mainstream? She is supported by Republicans and Democrats on the Texas Supreme Court. She has been endorsed by every major newspaper in her home State.

That is a mainstream record.

In her judicial decisions, some on the floor over the last day, and actually last week as well, have criticized her as a judicial activist in cases, and the focus has always been on these cases involving a parental notification law.

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The law is not about whether a minor is able to have an abortion or whether a minor must receive parental consent before having an abortion. The law simply requires a parent to be notified if their child is having an abortion, except in certain circumstances.

The author of the law, and 26 other members of the Texas legislature, have defended Justice Owen's opinions, and it is spelled out clearly in a letter of May 16, 2005, that is signed by the author of the legislation itself and 26 other members of the Texas legislature.

The letter is interesting. It is a letter dated May 16, and it is a letter that was sent to Senator SPECTER, of the Judiciary Committee, and Senator LEAHY. The letter is indeed quite powerful. I would like to read just a couple sections from the letter.

Mr. President, I ask unanimous consent that following my remarks the entire letter be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. FRIST. The letter reads pretty clearly: ''Dear Chairman SPECTER''—and there was a copy sent to Senator LEAHY. This is from the author of the legislation of which these accusations of judicial activism have been floating around on the floor. These are the authors, the people who wrote—who wrote—the legislation. I quote from the letter:

I, along with my colleagues in the Texas Senate and Texas House of Representatives, am writing to express my full and unconditional support for Justice Priscilla Owen's nomination to the U.S. Court of Appeals for the Fifth Circuit. As the author of the Texas Parental Notification Act, I followed closely the Texas State Supreme Court rulings regarding that statute. As such, we are disturbed by the recent attacks on Justice Owen's review of the Texas Parental Notification Act. Justice Owen's opponents have characterized her as an activist member of the bench, and nothing could be further from the truth.

The letter continues:

To the contrary, her opinions interpreting the Texas Parental Notification Act serve as prime examples of her judicial restraint.

Mr. President, I will have my colleagues read the remainder of the letter. It goes on and gives examples in explaining that statement. And then, down in the following paragraph, I quote:

Throughout the series of cases, Justice Owen's interpretation of legislative intent were based on careful reading of the new statute and the governing U.S. Supreme Court precedent.

This is the final sentence of the letter:

In short, Justice Owen's academic and professional qualifications are beyond question. We strongly urge Senators to vote positively on her nomination.

Again, it is signed by the author, Florence Shapiro, and, again, 26 others from the house of representatives and senate in Texas.

In addition, a pro-choice Democratic law professor also has defended Justice Owen. This professor, Linda Eads, is a member of the Texas Supreme Court Advisory Committee that drafted rules to help judges deciding cases under this law, the parental notification law. She says Justice Owen's decisions ''do not demonstrate judicial activism. She did what good appellate judges do every day . . . if this is activism, then any judicial interpretation of a statute's terms is judicial activism.''

If you look fairly at Justice Owen's record, you will see a well-qualified, mainstream judge.

But I will say, as we step back and look at the larger debate, some Senators may draw different conclusions about Justice Owen, and they may decide she does not deserve confirmation. Indeed, they may decide that none of the President's nominees deserve confirmation. And they, as Senators, are entitled to that choice. But they should express that choice, give that advice and consent by a vote, an up-or-down vote, ''yes'' or ''no,'' confirm or reject. They should not hide behind a procedure that prevents 100 Senators from their responsibility, their duty to vote ''yes'' or ''no'' on the nominee, up or down.

As everyone knows, I have advocated fair up-or-down votes for judicial nominees again and again and again and will continue to do so. In the past, some of our colleagues on the other side of the aisle have shared this view. Many of them have argued forcefully and eloquently for up-or-down votes on judicial nominees. Let me share some of their arguments with you.

One Senator on the other side of the aisle, in opposition to giving up-or-down votes today, said:

[E]veryone who is nominated ought to have a hearing and to have a shot to be heard on the floor and have a vote on the floor.

Another Democratic Senator said:

A nominee is entitled to a vote. Vote them up; vote them down. . . . If there are things in their background, in their abilities that don't pass muster, vote no. Our institutional integrity requires an up-or-down vote.

Another Democratic Senator noted that:

According to the U.S. Constitution, the President nominates, and the Senate shall provide advice and consent. It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor.

These are all arguments from my Democratic colleagues in years past. These quotes capture what this debate today is all about. It is about fairness. It is about principle. It is about the constitutional duty of every Senator. The Senate must do what is right. We must do what is fair. We must do the job the American people elected us to do.

So let us continue to debate. Let Senators exercise their right to speak. We may not agree. We will not agree on every judicial nominee, but we can agree on the principle that every qualified judicial nominee deserves an up-or-down vote.

I yield the floor.

EXHIBIT 1

TEXAS STATE SENATE, DISTRICT 8,
Plano, Texas, May 16, 2005.

Hon. Chairman ARLEN SPECTER,
Committee on the Judiciary, U.S. Senate, Russell Senate Office Bldg., Washington, DC.

DEAR CHAIRMAN SPECTER: I, along with my colleagues in the Texas Senate and Texas House of Representatives, am writing to express my full and unconditional support for Justice Priscilla Owen's nomination to the U.S. Court of Appeals for the Fifth Circuit. As the author of the Texas Parental Notification Act (SB 30/HB 623), I followed closely the Texas State Supreme Court rulings regarding that statute. As such, we are disturbed by the recent attacks on Justice Owen's review of the Texas Parental Notification Act. Justice Owen's opponents have characterized her as an activist member of the bench, and nothing could be further from the truth.

To the contrary, her opinions interpreting the Texas Parental Notification Act serve as prime examples of her judicial restraint. Although some might try to hold up the Texas Parental Notification Act as a litmus test on abortion, they simply cannot make the case. The Act is not about whether a minor is able to have an abortion or must receive parental consent, but whether a parent should be notified. The Act recognizes that a girl may have an abortion and does not question whether the Constitution guarantees that right.

Throughout the series of cases, Justice Owen's interpretations of legislative intent were based on careful reading of the new statute and the governing U.S. Supreme Court precedent. For example, Justice Owen's opinion that a minor should ''indicate to the court that she is aware of and has considered that there are philosophic, social, moral, and religious arguments that can be brought to bear when considering abortion.'' This opinion is consistent with prior U.S. Supreme Court precedent stating: ''The waiting period, for example, may provide the parent or parents of a pregnant young woman the opportunity to consult with her in private, and to discuss the consequences of her decision in the context of the values and moral or religious principles of their family'' (Planned Parenthood v. Casey).

In short, Justice Owen's academic and professional qualifications are beyond question. We strongly urge Senators to vote positively on her nomination.

Very truly yours,

Sen. FLORENCE SHAPIRO,
President Pro Tempore.

Sen. Chris Harris; Sen. Jane Nelson; Rep. Brian McCall; Rep. Harvey Hilderbran; Rep. Suzanna Gratia Hupp; Rep. Betty Brown; Rep. Robert E. Talton; Rep. Kent Grusendorf; Rep. Gary Elkins; Rep. Edmund Kuempel; Rep. Joe Crabb; Rep. Leo Berman; Rep. Mike Krusee; Rep. Dianne White Delisi; Rep. Joe L. Driver; Rep. Frank J. Corte, Jr.; Rep. Fred Brown; Rep. Peggy Hamric; Rep. Joe Nixon; Rep. Mary Denny; Rep. Elvira Reyna; Rep. Geanie Morrison; Rep. Eugene Seaman; Rep. Anna Mowery; Rep. Richard L. Hardcastle; and Rep. Ray Allen.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. REID. It is my understanding that we go to the debate on Judge Owen at what time?

The PRESIDENT pro tempore. We are on debate now.

Mr. REID. I ask unanimous consent that the time of the two leaders not

take away from the debate that will begin at 9:45. What I am saying is, whatever time we use, the debate should start immediately after our time, the incremental time.

The PRESIDENT pro tempore. The leader time is reserved. The Senator is entitled to take it. The controlled time does not begin until 10 a.m.

Mr. REID. I realize that. I would like to reserve my time and use this time to speak on the matter now before the Senate.

The PRESIDENT pro tempore. The time between now and 10 a.m. is not controlled.

Mr. REID. Just so I understand, it was my understanding the debate on Priscilla Owen was supposed to start at quarter to 10.

The PRESIDENT pro tempore. It is to start at 10 o'clock.

Mr. REID. I misunderstood. I apologize, Mr. President.

(Mr. VITTER assumed the Chair.)

Mr. REID. Mr. President, I have addressed the Senate on several occasions to do what I believe is setting the record straight about Senate history and the rules of this body. But, frankly, I would much rather address wage and health care costs, bringing down gas prices, talk about education, spiraling deficits we have. But the majority leader has decided we will spend this week and next week, or at least part of next week, talking about judges who I believe, Mr. President, are not in the mainstream of American jurisprudence.

I am happy to engage in this debate. I would rather not. But I do want the debate to be accurate. For example, my good friend, the distinguished Republican leader, issued a statement last Friday in which he called the filibuster a ''procedural gimmick.'' I took time yesterday to correct that assertion, setting forth in the RECORD what the word ''gimmick'' means. The dictionary defines it as a scheme, a new scheme. I indicated that certainly the filibuster was everything but that. It is not a gimmick. It has been part of the Nation's history for two centuries. It is one of the vital checks and balances established by our visionary Founding Fathers. It is not a gimmick.

Also, some Republicans have stated improperly the use of the filibuster. They have said time and time again that the defeat of a handful of President Bush's judicial nominees is unprecedented. In fact, hundreds of judicial nominees in American history have been rejected by the Senate, many by filibuster.

There was, of course, the most notable, the nomination of Abe Fortas, to be Chief Justice of the United States. He was successfully filibustered in 1968. Here, Mr. President, is a Washington Post which I read in the morning when I come in. It is from many years ago. The first sentence:

A full-dress Republican-led filibuster broke out in the Senate yesterday against a motion to call up the nomination of Justice Abe Fortas for Chief Justice of the United States.

''A full-dress Republican-led filibuster.'' We have had filibusters. That is what has been disappointing to me with some of my colleagues in saying there has not been a filibuster. There has been. During the Clinton administration, more than 60 judicial nominees were bottled up in the Judiciary Committee and never received floor votes. Of course, as indicated by my distinguished friend, the Republican leader, during that period of time Democrats were complaining about what was going on, saying there should have been hearings in the Senate, and even came to the floor—and these were accurate quotes of the majority leader—saying: Let's have some votes, let's have some votes on these people.

Well, Mr. President, we never said we would break the rules to change the rules. To change the rules in the Senate can't be done by a simple majority. It can only be done if there is extended debate by 67 votes. So I do not at all say that the statements made by the Republican leader were wrong about our wanting votes and we were disturbed that there are no votes, but we never, ever suggested that rules should be broken.

But in addition to the pocket filibusters—call them whatever you want—the 60, I think 69 nominations never made it out of the Russell Building, out of the Judiciary Committee, but in addition to those performances, Republicans engaged in explicit filibusters on the floor against a number of Clinton judges when they did get out of committee, and they defeated a number of President Clinton's executive branch nominees by filibuster.

It is the same advice and consent clause. Why, if a filibuster of Surgeon General Henry Foster was constitutional, is a Democratic filibuster of Fifth Circuit Court nominee Priscilla Owen unconstitutional? If Foster is constitutional, why wouldn't the same apply to Priscilla Owen? The Republican argument doesn't add up.

But I would say this to my friend, the Presiding Officer. I have said let's not dwell on what went on in the Clinton administration. Let's not dwell on what went on in the 4 years of President Bush's administration. I am sure there is plenty of blame to go around. As we look back, I am not sure—and it is difficult to say this, but I say it—I am not sure either was handled properly. I have known it wasn't right to simply bury 69 nominations, and in hindsight maybe we could have done these 10 a little differently. But the American people are tired of what we are doing, tired of the constant fighting going on. What is going to take place if this continues?

We will have a vote sometime next week. It will be a close vote, of course, We only need six Republicans. The Presiding Officer was formerly chairman of the powerful Appropriations Committee. It is very difficult at best to get appropriations bills passed. Most everything around here is done by unanimous consent. Things won't work as well as they could have. We need to avoid this. We are all legislators.

But, sadly, now the President of the United States has joined the fray and become the latest to rewrite the Constitution and reinvent reality. Speaking to fellow Republicans on Tuesday night, 2 days ago, he said the Senate ''has a duty to promptly consider each . . . nominee on the Senate floor, discuss and debate their qualifications and then give them the up-or-down vote they deserve.'' Every one of the 10 he speaks of had votes, every one of them. Right here on the Senate floor, people walked down to these tables and their name was called and they voted.

Referring to the President's words, duty to whom? The radical right who see within their reach the destruction of America's mainstream values. Certainly not duty to the tenets of our Constitution or to the American people who are waiting for progress and promise, not partisanship and petty debates.

The duties of the Senate are set forth in the U.S. Constitution. Nowhere in that document does it say the Senate has a duty to give Presidential appointees a vote. It says appointments shall be made with the advice and consent of the Senate. That is very different than saying every nominee receives a vote. I repeat, all of these about which we are concerned, including Priscilla Owen, have had a vote, right here. The fact was even acknowledged by the majority leader that a vote is not required. Senator BYRD asked the majority leader—Senator BYRD was here, the majority leader was here—last week, he asked the majority leader if the Constitution accorded each nominee an up-or-down vote on the Senate floor. The answer was no. Senator FRIST was candid. The answer was no. The language was not there, Senator FRIST said. He is correct. Senators should read the same copy of the Constitution Senator FRIST had memorized.

It is clear that the President misunderstands the meaning of the advice and consent clause. The word ''advice'' means advice. President Clinton consulted extensively with then Judiciary Chairman HATCH, and as a result of that we debated Ginsburg and Stephen Breyer to the Supreme Court, both fine minds, fine justices. In contrast, this President never sought or heeded advice of the Senate. Now he demands our consent.

That is not how America works. The Senate is not a rubber stamp for the executive branch. Rather, we are the one institution where the minority has the voice and ability to check the power of the majority. Today, in the face of President Bush's power grab, it is more important than ever. Republicans want one-party rule. The Senate is the last place where the President and Republicans can't have it all. Now the President wants to destroy our checks and balances to assure that he does get it all.

That check on his power is the right to extended debate. Every Senator can stand on behalf of the people who have sent them here and say their piece. In the Senate's 200-plus years of history, this has been done hundreds and hundreds of times—stand up to popular Presidents, to unpopular Presidents, arrogant with power, to block legislation harmful to American workers in the eyes of the Senator, and, yes, even to reject Presidential nominations, even judicial nominations.

Who are the nominees now before this Senate?

Priscilla Owen is a Texas Supreme Court justice nominated to the Fifth Circuit. She sides with big business and corporate interests against workers and consumers in case after case regardless of what the law is. Her colleagues on the conservative Texas court have written that she legislates from the bench. Her own colleagues have called her opinions ''nothing more than inflammatory rhetoric,'' her interpretation of the law to be ''misconceptions,'' and those are quotes, and even rebuked her for second-guessing the legislature on vital pieces of legislation. If she wanted to legislate, she should run for Congress. If she wants to interpret and uphold the law, she should be a judge. She cannot do both. And I might note that the Attorney General of the United States has called her activism unconscionable.

I read to the Senate yesterday what that word means. Unconscionable. It, Mr. President, means that her acts are out of the mainstream for sure. Let me flip open my dictionary here. ''Unconscionable.'' ''Shockingly unjust'' and ''unscrupulous.'' That is what the Attorney General of the United States said about Priscilla Owen. I repeat: ''shockingly unjust, unscrupulous.'' He served with her on the supreme court. He should know.

In case after case, her record marks her as a judge willing to make law from the bench rather than follow the language of the legislature judicial precedent. She has demonstrated this tendency most clearly in a series of dissents involving a Texas law providing for a judicial bypass of parental notification requirements for minors seeking abortion. She sought to erect barriers that did not exist in law such as requiring religious counseling for minors. Good idea, perhaps, but not something that you do from the bench. It should be done by the legislature.

Janice Rogers Brown, a supreme court justice from California, nominated to the DC Circuit, is using her seat on the bench to wage an ideological war against America's social safety net. She wants to take America back to the 19th century and undo the New Deal which includes Social Security and vital protections for working Americans like the minimum wage. Every Senator in this body should tell the more than 10 million working Americans already living in poverty on the minimum wage why someone who wants to make their life harder and destroy their hopes and dreams should be elevated for a lifetime to one of most powerful courts in the country. She has been nominated to a court that overseas the actions of Federal agencies responsible for worker protections, environmental laws and civil rights and consumer protection. She has made no secret of her disdain for Government. According to Justice Brown, Government destroys families, takes property, is the cause of a ''debased, debauched culture,'' and threatens civilization. That is her statement.

Mr. SCHUMER. Would my colleague yield for a question?

Mr. REID. I would be happy to yield for a question.

Mr. SCHUMER. I thank my colleague. I think my colleague was in the Chamber yesterday when Senator FRIST first rose to speak and talked about the 214 years of tradition of not doing filibusters of judges. I asked him about his vote on March 8, 2000, 5:51 p.m. He voted to filibuster Judge Paez. In fact, it was clearly a filibuster. The statement of the leader of that filibuster, who was Senator Smith, our former colleague from New Hampshire, is obvious. The Senator ''led a filibuster yesterday on the nomination of Richard Paez.'' You may remember that Senator FRIST said he would return to the floor yesterday and answer how he could distinguish between saying there is a grand tradition in the Senate of no filibuster, but he participated in one. Just 5 years ago. My colleague was on the floor—I was not—earlier this morning. I had hoped to get here when Senator FRIST spoke. I would just ask my colleague, did he hear any answer to that question which Senator FRIST has promised?

Mr. REID. I say through the Chair to my friend, I was present and participated in attempting to break the filibuster of Paez. I know how the distinguished Republican leader voted. I was here this morning, and I heard no answer to the question asked by the Senator from New York.

Mr. SCHUMER. So it would be fair to say that he has still not answered the question, even though he said yesterday that he would come back and answer it.

Mr. REID. He has not done that publicly. That is correct.

Mr. SCHUMER. I thank my colleague for yielding for a question.

Mr. REID. Justice Brown received a ''not qualified'' rating from the California judicial commission when she was nominated for the Supreme Court of California because of her tendency to inject her political and philosophical views into her opinions and complaints that she was insensitive to established legal precedent.

Speaking recently at church on ''Justice Sunday,'' Justice Brown proclaimed a ''war'' between religious people and the rest of America. Imagine that. Is this someone we want protecting the constitutional doctrine of the separation of church and state or freedom for all Americans to practice religion?

She has expanded the rights of corporations at the expense of individuals—arguing to give corporations more leeway against attempts to prevent consumer fraud—some of these things make you smile—to stop the sale of cigarettes to minors, to prevent discrimination against women and individuals. She may be the daughter of a sharecropper, but she has never looked back to ensure legal rights of millions of Americans still fighting to build better lives for their children and their children's children. They may not be sharecroppers, but they live like sharecroppers, and she has done nothing to protect them.

These are the nominees over which the Republican leadership is waging this fight, and they are prepared to destroy the Senate that has existed for 200 years to do so.

The Senate is a body of moderation. While the House is the voice of a single man, single woman, and the House of Representatives is a voice of the majority, the Senate is the forum of the States. It is the saucer that cools the coffee. It is the world's greatest deliberative body. How will we call this the world's greatest deliberative body after the majority breaks the rules to silence the minority? Breaking the rules to change the rules. This vision of our Government—the vision of our Founding Fathers—no longer suits President Bush and the Republicans in the Senate. They don't want consensus or compromise. They don't want advice and consent. They want absolute power.

To get it, the President and majority leader will do all they can to silence the minority in the Senate and remove the last check we have in Washington against this abuse of power. The White House is trying to grab power over two separate branches of government—Congress and the judiciary. They are enlisting the help of the Republican Senate leadership to do it. Republicans are demanding a power no President has ever had, and they are willing to break the rules to do it.

Make no mistake. This is about more than breaking the rules of the Senate or the future of seven radical judges. At the end of day, this is about the rights and freedoms of millions of Americans. The attempt to do away with the filibuster is nothing short of clearing the trees for the confirmation of an unacceptable nominee to the Supreme Court. If the majority gets its way, President Bush and the far, far right will have the sole power to put whoever they want on the Supreme Court—Pat Robertson, Phyllis Schlafly. They don't want someone who represents the values of all Americans, someone who can win bipartisan consensus. They want someone who can skate through with only a bare partisan majority, someone whose beliefs are on the fringes of our society. Nobody will be able to stop them from

placing these people on the highest court of the land—extremist judges who won't protect our rights and who hold values far outside the mainstream of America.

Here is what is really at stake: The civil rights of millions of Americans; voting rights of millions of Americans; the right to clean water to drink and safe air to breathe for millions of Americans; the right to free speech and religious briefs for millions of Americans; the right to equality, opportunity, and justice for millions of Americans; nothing less than the individual rights and liberties of all Americans.

It is up to us to say no to the abuse of power, to stand up for the Constitution. We need people who have the ability to be profiles in courage. Let the President and the Republican Party know that the Supreme Court is not theirs to claim.

The debate all comes down to this: Will we let George Bush turn the Senate into a rubber stamp to fill the Supreme Court with people from the extreme right's wish list, or will we uphold the Constitution's use of advice and consent powers to free the President to be like other Presidents have been, to force the President to look at the mainstream? I hope it is the latter. I know that is what my fellow Democrats and I will fight for, and I hope there are at least six responsible Republicans who will stand up and have the courage to join in this momentous battle.

Will the Chair advise me as to what the order is now for debate to go forward on the nomination?

The PRESIDING OFFICER. The time on the minority side has now expired, and the time from now until approximately 10:45 is under the control of the majority leader or his designee.

Mr. REID. And then after that, we will go an hourly basis.

The PRESIDING OFFICER. That is correct.

Mr. REID. I hope I didn't inconvenience the majority with taking too much time. If I did, we will try to readjust it later.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I am pleased the debate on Priscilla Owen is beginning to give her side of the story. We are finally getting past the sweeping mischaracterizations about her that have been put forward in the news media for years by interest groups—those who say she is outside the mainstream, or she is an extremist. But now on the floor of the Senate we are getting down to specifics.

Every single time we have been able to examine a specific criticism of a particular opinion by Justice Owen, that criticism has been clearly and decisively refuted. Justice Owen is a careful and thoughtful jurist. She is an extremely talented intellect. She uses her ability to read every statute and enforce it fairly. She is the very model of a judge who interprets the law and does not legislate on the bench.

Let's get to the heart of the matter. One of the major criticisms of Justice Owen is her effort to interpret a 1999 law passed by the Texas State legislature requiring parental notification before a minor can obtain an abortion. Most of the groups opposing Justice Owen strenuously opposed passage of that law in the first place. But the Texas legislature did approve a parental notification requirement with a strong bipartisan majority, favoring it in both the Texas House and Senate. The House was controlled by Democrats at the time, and it required any minor seeking an abortion to notify at least one parent, or receive permission from a judge to bypass that step. It was later up to the supreme court to interpret that bill.

The law did not provide clear direction to the justices on several key points. We are talking about 13 cases that came to the supreme court for review. As sometimes occurs, the court was divided in how to interpret the law, particularly the portion allowing a minor to bypass parental notification by going to court. Some justices—a majority—looked to other States on how their courts interpreted their parental notification statutes, even though those States that had different laws and different legislative histories. Other justices, including Justice Owen, looked first at the intent of the Texas legislature. She then looked to rulings of the U.S. Supreme Court. She reasoned, correctly, that the legislature had attempted to fashion the law to conform with Supreme Court rulings.

Still other justices, I should add, took a different approach to analyze the bypass provision and, in some cases, they would have required greater restrictions on use of the judicial bypass than Justice Owen would have imposed. One of Justice Owen's colleagues on the supreme court at that time was Alberto Gonzales, now the U.S. Attorney General. The opposition to Justice Owen rests much of its case on a single phrase in one of then Justice Gonzales's opinions in which he referred to judicial activism.

He later, and under oath, clarified what he was talking about. He said:

''My comment about an act of judicial activism was not focused at Judge Owen or Judge Hecht; it was actually focused at me.''

This is a tragically misleading statement to be used against Justice Owen. First, judges disagree. That is why we have a nine-member court. They argue with each other. They accuse each other of misreading the statutes. That is exactly the way it goes in many opinions. In fact, every member of the Texas Supreme Court was accused by one justice or another of judicial activism during the course of their service on the court.

Attorney General Gonzales has testified under oath that he was not referring to Justice Owen's opinion when he wrote the offending phrase. He said he was referring to himself. That by itself should dispose of the matter. Elsewhere in the same opinion, Justice Gonzales wrote another sentence. Curiously, that sentence is never cited by opponents of Justice Owen.

Let me quote what Justice Gonzales wrote:

> Every member of this court agrees that the duty of a judge is to follow the law as written by the legislature.

In other words, he specifically stated that none of the nine justices on the Texas Supreme Court is a judicial activist.

Finally, let me point out that Justice Gonzales was White House counsel when President Bush nominated Justice Owen for the Fifth Circuit in 2001. In other words, General Gonzales was in charge of the process that produced Justice Owen's nomination. Does anybody seriously believe he would select a nominee for this position if he thought she were a judicial activist?

I want to look at the 13 cases from a statistical standpoint. Justice Owen is solidly in the mainstream of her court. In these 13 rulings, Justice Owen was in the majority 10 times and found herself in dissent only on 3 occasions. She disagreed with the majority decision three times. In those 13 cases, the Texas Supreme Court required notification 6 times and facilitated a judicial bypass 7 times. So Justice Owen voted to require parental notification in nine cases and to facilitate the judicial bypass in four. Remember, no case on judicial bypass reached the Texas Supreme Court at all unless it had first been denied by two courts and by up to four judges. This is important, because under our system, the trial court is charged with ascertaining the facts in a case. In other words, Justice Owen is being faulted for being more willing to defer to trial court findings of fact because she knows trial judges have the unique ability to assess a witness's demeanor and credibility.

Now, was Justice Owen's approach in the mainstream? Earlier this week, the Senate was visited by a group of six Texans. They represent diverse views, but they came to Washington to support Justice Owen and asked for fair treatment of her. They included Tom Phillips, who was Chief Justice of the Texas Supreme Court for most of the time Justice Owen had served. It included Elizabeth Whitaker, past president of the State Bar of Texas—one of 15 past State bar presidents, Republicans and Democrats, who are supporting Justice Owen's nomination.

In the group was Linda Eads, a former assistant State attorney general, who is now a professor at the Southern Methodist University School of Law. She specializes in constitutional law. Linda Eads describes herself as strongly pro-choice. She also said she disagreed with Justice Owen on parental bypass. But she emphasized that Justice Owen's judicial approach to

these cases was thoughtful and rational. She said it was easily within the respectable judicial mainstream on interpreting legislation. She ended by saying she strongly supports the confirmation of Priscilla Owen.

Finally, I want to talk about the intent of the Texas Legislature. I served in that legislature for two terms, years ago. I know most of the members of the Texas House and Senate.

It is interesting to me that opponents of Justice Owen accuse her of misreading legislative intent by requiring more parental involvement than the legislators intended. I believe the opposite might well be true. In fact, the legislature is currently in the process of discussing a new law that would strengthen parental involvement and require parental consent, not parental notification. That bill has passed the Texas House and the Texas Senate. It is now in a conference committee.

Justice Owen is highly respected in Texas. Allow me to quote from a letter sent by Senator Florence Shapiro, the chief sponsor of the parental notification act approved by the legislature in 1999. She says:

As a Senator in the Texas Legislature, the manner in which the Texas courts review and interpret our laws is extremely important to me. Justice Owen's opinions consistently demonstrate that she faithfully interprets the law as it is written, and as the Legislature intended, not based on her subjective idea of what the law should be. I am saddened to see that partisan and extremist opponents of Justice Owen's nomination have attempted to portray her as an activist judge, as nothing could be further from the truth.

Her opinions interpreting the Texas Parental Notification act serve as prime examples of her judicial restraint . . . I appreciated that Justice Owen's opinions throughout the series of cases looked carefully at the new statute and at the governing U.S. Supreme Court precedent upon which the language of the statute was based, to detennine what the Legislature intended the Act to do.

I, along with many of my colleagues—Democrats and Republicans alike—filed a bipartisan amicus curiae brief with the Texas Supreme Court explaining that the language of the Act was crafted in order to promote, except in very limited circumstances, parental involvement.

Prior to the passage of the Act, a child could go to a doctor and have an extremely invasive procedure without even notifying one of her parents. At the same time, school nurses were not even permitted to give aspirin to a child without parental consent. Like legislators in dozens of states across America, we realized that something needed to be done to respect the role of parents—that at least one parent should be involved in a major medical decision impacting their minor daughter.

Because this was not an ''abortion'' bill but a ''parental involvement'' bill supported by lawmakers on both sides of the abortion debate, we were able to pass a bipartisan law that promotes the relationship between parents and their minor daughters and is exceedingly popular with the people of Texas.

Justice Owen is the kind of judge that the people of the 5th Circuit need on the bench—an experienced jurist who follows the law and uses common sense. I strongly urge the committee to reject the politics of personal destruction pushed by Justice Owen's extremist critics and vote positively on her nomination. She merits immediate confirmation.

That is a letter from State Senator Florence Shapiro.

Let's be clear about what is going on here. A number of interest groups fought against legislative enactment of the parental notification law. They lost. Now they are trying to undercut a judge who, as honestly and fairly as she could, attempted to interpret that law. They are entitled to their opinion. They should vote their convictions. Priscilla Owen deserves an up-or-down vote on her nomination to the Fifth Circuit.

I want to respond to the distinguished Democratic leader, who this morning said that Owen and 10 other nominees have all received votes in the Senate. Senator REID left out one important detail, and that is—if she had gotten a confirmation vote on the floor of the U.S. Senate, Justice Owen would be sitting on the Fifth Circuit today. Indeed, this Senate has taken four cloture votes on Priscilla Owen, and each time she has received more than a majority—the standard for confirmation in the Senate—until the Congress of 2 years ago.

She would be confirmed by the Senate. Senator REID is correct that nominees have received cloture votes, in an attempt to override filibusters. But requiring a 60-vote threshold to proceed to confirmation is not the Senate's practice. Justice Owen continues to wait patiently for the Senate to confirm her; she has been waiting for four years.

The Senate Republicans have asked the minority to allow the Senate to vote, but they have refused and continue to vote no on cloture, thereby changing the Constitution without going through the process of a constitutional amendment.

When the Constitution requires a supermajority, it is explicit. Just before the advise and consent part of the Constitution, it does have a standard of a two-thirds vote, but that was not put in the article on confirmation of judges. The clear constitutional interpretation is that if a supermajority is required, it is stated in the Constitution. And for over 200 years, this body has recognized that and has made a majority vote the standard until the last session of the Senate.

It is disingenuous for the other side to suggest that these 10 nominees have had votes because if they had, they would be sitting on the benches for which they were nominated. But instead, Priscilla Owen, after being confirmed by the Senate four times, is back again.

I think we can do better. I think we can acknowledge the Constitution and acknowledge that if we are going to amend the Constitution, the Senate should start the process of a constitutional amendment. The Constitution is clear that a majority vote is required, and that has been the standard for over 200 years in the Senate until the last session of Congress.

I hope Priscilla Owen will get an up-or-down vote, because if she does, the tradition of the Senate and our respect for the Constitution will be clear. Again, if they want to change it, perhaps they should go about it in the right way, and introduce a constitutional amendment to require a supermajority for confirmation of judges.

I think the Founding Fathers were geniuses and knew a balance of power had to be delicate among the three branches of Government. They envisioned a President appointing circuit court judges with the Senate having the authority to confirm or reject them with a simple majority vote. The balance of power in our Constitution has kept our country strong and has been the anchor for our democracy.

Priscilla Owen is a wonderful human being who has been demonized for 4 years. She has already displayed her judicial temperament by not responding to the unfair criticisms, by showing no bitterness, and by harboring no anger. But she is a human being, a good person, and she deserves an up-or-down vote. When she gets an up-or-down vote, she will be confirmed and become a brilliant member of the Fifth Circuit Court of Appeals.

I hope the Senate is on the brink of doing the right thing by these nominees, by acting as the lofty body it is, can be, and should be. I hope we will treat everyone who comes before us with respect. I do not think that has been the case for this very fine supreme court justice for the State of Texas. I hope that is going to change. I hope we will treat her as she should be treated. I hope she will get her up-or-down vote which will show that her 4 years of patience have allowed us to do the right thing and she will be able to serve our country in a way that I know she will make all of us proud.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator from Louisiana.

Mr. VITTER. I thank the Chair.

Mr. President, in recent weeks, the American people, including the citizens of Louisiana, have heard a lot about Senate rules, about historical precedent, about something very confusing called the filibuster, about the Senate's constitutional duty, and advice and consent. I think for the average American, for the average Louisianan, this seems pretty esoteric. This seems pretty out of touch with their everyday lives, this issue of how the Senate governs itself.

But there are issues at the heart of this which are important to those citizens, including my constituents in Louisiana. And those issues are: Is the Senate going to do its job? Are we as Senators going to do our job and do the people's business, address important issues of the day to build up our country and make it better?

Also, there is the fundamental issue of fairness. Are we going to be fair in this process to all concerned?

Those are themes, those are issues to which Americans all across the country, certainly my citizens in Louisiana relate and care about. Are we going to do the people's business? Are we going to act in a way that is fair to all? Those are issues directly at the heart of this debate—doing the people's business.

Last year, I ran for the Senate for the first time. In doing so, of course, I traveled all around Louisiana and talked to citizens of all walks of life in every corner of the State. One theme I heard over and over from all sorts of folks of both parties was: Please go up there and do what is right and do the people's business. Get beyond all of this bitter partisanship, this obstructionism, the filibuster. Do the people's business in terms of important issues of the day. That is what folks in Louisiana told me over and over again.

They care about putting good people on the bench and having our courts run properly and filling these vacancies. They also care about other important business—passing a highway bill, building infrastructure so we can create good jobs in this country and Louisiana, passing a national energy policy to get us on track in terms of energy independence. That is important for our national security, and that is important for our economic security.

Again, wherever I went, with whomever I talked—Black, White, Democrat, Republican, and everyone in between—folks said over and over: Look, we are sending you there to do our business, to face issues, to vote, to move forward as a country, not to obstruct, not to play political games, not to get mired in bitter partisanship, but to take care of us and to address our concerns. And that is important.

The other issue that is at the heart of this debate that ordinary citizens around the country and Louisiana care about is fairness. Are you going to act in a way that is fundamentally fair to everybody concerned? And, of course, that is at issue here as well.

We have judicial nominees who have been nominated not weeks ago or months ago but, in many cases, years ago; in some cases, over 4 years ago. Their lives have been disrupted. They have been attacked by interest groups around the country, as well as Members of Congress. Many charges have been leveled against them that are patently untrue and patently unfair. And after all of that turmoil, after all of those trials and tribulations, they do not even get an up-or-down vote on the floor of the Senate. There is no resolution to the trial, the jury never comes back. We do not get to vote and say this person should be on the court or this person should not be on the court. That is not fair. That is not fair in the minds of any ordinary American. It is not fair in the minds of the citizens of Louisiana.

We need to bring some fundamental fairness to this process. Sure, we need to have an important debate. Sure, we need to vet all the information. We can have differences of opinion. But then at the end of the day, we need to have resolution, we need to have an up-or-down vote. It is time to do that with all of these judicial nominees.

We have a historic opportunity in the Senate right now to address both of those concerns: to do the people's business, to do our job, to vote, and to move on to other key issues, such as the highway bill, building jobs, building energy independence—and we have the opportunity to act honorably and with fundamental fairness by treating all concerned in a fundamentally fair way in giving these nominees an up-or-down vote.

I stand on the Senate floor today to ask that we all come together to do that because that is the right thing to do, not for party leaders, not for the President, or for interest groups on the left or the right. It is the right thing to do for the American people. It is the right thing to do for the citizens of each of our respective States.

I make a plea in particular to my colleague from Louisiana, Senator LANDRIEU, to do that. She is in a unique position to reach out and achieve fundamental fairness and do the people's business in a constructive way.

Many folks, including me, quite frankly, were disappointed that a few years ago Senator LANDRIEU filibustered and supported that filibuster of Miguel Estrada, another highly qualified judicial nominee, after she had expressed strong support of that very nomination in her reelection campaign.

This is an opportunity to set that record aside and do the right thing and give all of these judicial nominees a fair up-or-down vote. That is what the folks of Louisiana want: to do the people's business, to do our job, to vote and to address other important issues and to act honorably and bring fundamental fairness, proper American values, Louisiana values to this process.

We are beginning with a very important nomination to the people of Louisiana, Priscilla Owen of Texas. It is particularly important to my citizens of Louisiana because the U.S. Fifth Circuit Court of Appeals, to which Judge Owen is nominated, serves Louisiana, covers all of Louisiana. There has been a vacancy in that position for years and years.

Judge Owen has been nominated for over 4 years. Her nomination has been thoroughly vetted, thoroughly debated and, yet we have never had that closure. We have never had that fair up-or-down vote. In fact, the vacancy which she would fill has been declared a judicial emergency in the Fifth Circuit Court of Appeals, impacting directly Louisiana because it has been open for so long.

So this is the perfect place to start for me, for Senator LANDRIEU, for those who are concerned about justice in the Fifth Circuit, taking care of that judicial emergency, and then we should move on and give all of these nominees a fair up-or-down vote.

Justice Owen has been maligned unfairly. All sorts of charges have been leveled against her, and I want to address some of those directly. She has been called fringe and out of the mainstream, way out of the mainstream of American opinion and everyday life. Yet if you take any serious look at the facts, that charge simply does not hold up.

Justice Owen has been on the Texas Supreme Court since 1994, but more significantly, when she was reelected to that position, she was reelected with 84 percent of the vote in Texas, with the endorsement of every major newspaper of the State and with bipartisan support.

Now, is every newspaper in the State fringe, out of the mainstream? Are 84 percent of Texas voters fringe and out of the mainstream? Obviously not.

In addition, in her nomination to the U.S. Fifth Circuit Court of Appeals, Justice Owen gained the highest rating possible from the American Bar Association.

She was nominated on May 9, 2001, nearly 4 years ago, and renominated January 7, 2003, and February 14, 2005. Her qualifications have been vetted and debated exhaustively.

Owen has significant bipartisan support, including three former Democrat judges on the Texas Supreme Court and a bipartisan group of 15 past presidents of the State Bar of Texas.

Owen has been a justice on the Texas Supreme Court since 1994 and was endorsed for reelection by every major Texas newspaper.

Owen previously practiced commercial litigation for 17 years. She also has a substantial record of pro bono and community activity.

Owen received her undergraduate degree from Baylor University and graduated third in her class from Baylor Law School in 1977. She was a member of the law review and has been honored as Baylor Young Lawyer of the Year and as a Baylor University Outstanding Young Alumna.

After graduating from law school, Justice Owen received the highest score in the State on the Texas bar exam in December 1977.

The American Bar Association unanimously rated Justice Owen ''well qualified,'' its highest possible rating.

Some weeks ago, I also spoke on this floor in support of Justice Brown, whose nomination recently cleared the Judiciary Committee for the second time. The President nominated her to the U.S. Court of Appeals for the DC Circuit Court nearly 2 years ago. One-fourth of the DC Circuit is currently vacant; and Justice Brown's nomination has strong support.

As I noted before, during Justice Brown's 9-year-tenure on the California Supreme Court, she has acquired a reputation as a fair and intelligent justice

who is committed to the rule of law. Justice Brown has served on the California Supreme Court since May 1996. Her appointment to that court was historic: Justice Brown is the first African-American woman ever to have served as an associate justice on the California Supreme Court.

Even more impressive, Justice Brown was recently returned to that court with the approval of 76 percent of California voters. In her retention election, Justice Brown had the highest vote percentage of all justices on the ballot.

Another sign of Brown's credibility is that, in 2002, she wrote more majority opinions than any of her colleagues on the California Supreme Court. As stated by a bipartisan group of Justice Brown's former judicial colleagues: ''she has quickly become one of the most prolific authors of majority opinions on the California Supreme Court.'' At least 12 judges have signed letters in support of her confirmation. Such numbers are indicators of the high esteem in which she is held by both the voting public in California and by her judicial colleagues.

I have heard arguments from some of my colleagues on the other side of the aisle that Justice Brown should not be confirmed by this Chamber. One argument is that she supposedly abhors Government. Another argument is that she is supposedly hostile to civil rights. Such arguments are entirely without merit, and I would like to respond to this attack on Justice Brown.

While her critics charge that Justice Brown abhors Government, this nominee is hardly an extremist when it comes to Government. Indeed, as a longtime public servant, Justice Brown has been part of our Government for 25 years. She thinks there are many things Government does well, many things only Government can do; and she has criticized the unintended consequences of some of the things that Government does. In her judicial decisions, Justice Brown strives to apply the law as it exists and she defers to the legislature's judgment on how to solve many social or economic issues.

This nominee's judicial opinions suggest that she fully appreciates the importance of having Government play an active role in certain areas, including efforts to protect the public's health and safety. That is why she voted to uphold State health standards for labeling milk products. That is why she agreed that faucets, which might contain lead, should be considered a source of drinking water, under the Government's Safe Drinking Water Program. And that is why she agreed that her State's regulations regarding overtime pay should be liberally interpreted to provide California workers with more protection than they would have had under Federal law.

Her opponents also have insinuated that Justice Brown is hostile to civil rights. But Justice Brown has stated in her judicial opinions that ''discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong, and destructive of democratic society.''

In writing for a unanimous court, Justice Brown struck down a certain minority aid program because it violated Proposition 209, a provision of the California constitution that bars discrimination against, or preferential treatment to, any individual group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting. Every judge in California who reviewed this program found it unconstitutional.

I find the argument that she is hostile to civil rights to be simply incredible, when you consider Justice Brown's personal history as an African-American who came of age in the South in the midst of Jim Crow laws. As someone who attended segregated schools, Justice Brown, better than anyone, can appreciate the importance of fighting discrimination. She grew up in Alabama, the daughter of sharecroppers, listening to her grandmother's stories about NAACP lawyer Fred Gray, who defended Dr. Martin Luther King and Rosa Parks. Her rise to the California Supreme Court from humble beginnings in the segregated South is absolutely inspiring. That may be why she has been sensitive to claims of racial profiling in cases where the facts strongly supported such an inference.

We all know that Justice Brown has risen to a prominent position on the California Supreme Court. But not everyone is aware of Justice Brown's record of activities on behalf of minorities, children, and the underprivileged. Let me take this opportunity to highlight a few such activities:

Justice Brown served as a member of the California Commission on the Status of African-American Males. The Commission made recommendations on how to address inequities in the treatment of African-American males in employment, business development, and the criminal justice and health care systems.

She served on the Governor's Child Support Task Force, which reviewed and made recommendations on how to improve California's child enforcement system.

While serving as a member of the Community Learning Advisory Board of the Rio Americano High School, Justice Brown developed a program to provide Government service internships to high school students in Sacramento, CA.

I close by citing a statement in support of Justice Brown by an executive director of Minorities in Law Enforcement: ''We recommend the confirmation of Justice Brown based on her broad range of experience, personal integrity, good standing in the community and dedication to public service. . . Justice Brown is a fair and just person with impeccable honesty, which is the standard by which justice is carried out.''

In closing, I urge my colleagues to allow both Justice Brown and Justice Owen to have a vote on the Senate floor. Let Justice Brown's judicial qualifications, rather than her political philosophy, be our focus in her confirmation process.

The PRESIDING OFFICER. At this time, the majority's time has expired.

The majority whip.

Mr. MCCONNELL. Mr. President, I ask unanimous consent for a couple of minutes to make requests for committees to meet in the Senate and to make just a brief statement, 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, before I object, I could not hear the Senator.

Mr. MCCONNELL. I ask unanimous consent for 2 minutes to make a request for committees to meet, which my assumption is the Senator from Iowa will object to, and then just to make a very brief statement, a total of 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I have 10 unanimous consent requests for committees to meet during today's session of the Senate. They have the approval of the majority leader. I ask unanimous consent that these requests be agreed to and be printed in the RECORD.

The PRESIDING OFFICER. Is there objection? The Senator from Iowa.

Mr. HARKIN. Mr. President, on behalf of the Democratic leader, myself and, I might add, others on this side, because of the importance of the debate that is taking place on the Senate floor today, the Senate's attention ought to be turned to this and not to committee meetings, and therefore I object.

The PRESIDING OFFICER. The Senator objects.

Mr. MCCONNELL. If I could reclaim the balance of my brief time, what we have is a further effort to make it impossible to do the people's business in the Senate. The normal way we do business is for action to be going on on the floor, and additional action in committees at the same time. As a result of these objections, we have thwarted progress. We have thwarted progress on an energy bill, on a JOBS bill, on a disaster relief bill. Yesterday, an Intelligence Committee meeting had to be cancelled. Here we are in the middle of the war on terror and the Intelligence Committee was not allowed to meet.

Today's objections will shut down our meetings on the Energy bill, a closed CIA briefing on terrorism and proliferation of weapons in Iran, the Foreign Relations Committee, on strengthening America's workforce over at the Labor Committee, another Intelligence Committee shutdown by this action and, of course, the Judiciary Committee will not be able to continue its markup of the asbestos bill.

We are following the regular order. The majority leader simply called up a

judicial nominee to be considered by the Senate. There is nothing irregular in any way about the procedure that is being followed, and yet our friends on the other side of the aisle are shutting down the business of the Senate by making it impossible for committees to do the work of the American people on everything from intelligence matters to passing an energy bill when gas prices are at record highs. This is an incredibly irresponsible approach to the majority's efforts simply to move the people's business along by following regular order and moving toward a vote on the President's nomination for the court of appeals.

I yield the floor.

The PRESIDING OFFICER. The Senator yields back.

The time, until 11:45 a.m., is controlled by the Democratic leader or his designee.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I yield myself such time as I may consume.

I rise today to speak about the prospect that at some point next week, according to all of the press reports and according to what I have heard on the floor, the majority leader of the Senate will take a course of action that has been dubbed the ''nuclear option.''

The majority leader will take a course of action that will tear down the rules by which we operate in the Senate, rules which have been laid down in some cases for almost 200 years, in some cases over 100 years.

I believe we should be taking our time in the Senate because of the effects that this step by the majority leader could have on how we represent our constituents. It can have such a profound effect that it behooves us all to think very deeply and carefully about it and to come to the floor to express our opinions.

By triggering this nuclear option, the majority leader would unleash forces he would regret and that everyone who loves this great Nation and its system of checks and balances would regret.

There is no question that by breaking the rules—that is what would happen, breaking the rules—the majority party would gain short-term advantage. They would be able to confirm every one of their judicial nominees, no matter how radical or out of the mainstream. But the long-term destructive consequences triggering the nuclear option would be profound for our system of Government.

For more than two centuries, Senate rules and traditions have respected the rights of the minority. That would be destroyed. For more than two centuries, thanks to those minority rights, the Senate has been a force for compromise, moderation, and reason. That would be destroyed.

For more than two centuries, the minority's power in the Senate has been essential to America's system of checks and balances. That would be destroyed. And something else of great importance would be destroyed: Respect for rules.

Playing by the rules is the American way. It is one of our core values. From childhood, we are taught to respect the rules, to follow the rules, to play by the rules. We are taught it is dishonorable to break the rules or to change the rules in the middle of the game, especially to gain an advantage or simply to win. Ask any child, and he or she will say that breaking the rules or changing the rules in the middle of the game is not only unfair, it is wrong.

America is a great country because playing by the rules and respecting rules is a core value. It is a way of life. It is at the heart of our athletics, our business dealings, our way of government. It is no exaggeration to say that if one destroys the idea of playing by the rules, then they invite distrust, disorder, and the disintegration of the American social fabric. They invite chaos, and chaos invites tyranny.

This is exactly why the Republican leadership's plan to resort to the nuclear option is so dangerous. Since 1790, the filibuster has been used in the Senate countless times, and nearly 100 years ago the Senate passed rule XXII, codifying the right of extended debate. We know what that rule says. It says that it takes 67 votes to change the Senate rules and 60 votes to cut off debate. Those are the rules. They are deeply conservative rules, rules that have been respected and honored for nearly a century, until now.

The Republican leadership is unhappy because a small number of judges, all of them I consider far out of the mainstream, have been filibustered by the minority. They are unhappy because they have been able to confirm only 95 percent of the President's judicial nominees and not 100 percent. This compares to only an 80-percent confirmation rate during the Clinton administration. The Republicans blocked 68 Clinton judicial nominees, including, I might add, Bonnie Campbell, from my State of Iowa.

Most of those nominees were blocked in the Judiciary Committee by just one Senator. Now, does the Republican leadership celebrate the fact that by playing by the rules they won 95 percent of the time? Do they now play by the rules and gather the votes necessary to change rule XXII governing filibusters? No.

They are going to employ a trick, a procedure, whereby the rules are overturned by one decision of the Presiding Officer backed by 51 votes. That will destroy the rules of the Senate. Now they say: Well, it only applies to judges now. It can apply to anything else down the pike.

Now, a mere 10 Bush nominees have been blocked, and what is the Republican leadership's response? It is to destroy the rules. Sweep aside more than 200 years of Senate tradition. In its place, they will make up their own rules, a new rule, that will allow them or any majority to change any rule at any time for any reason with only 51 votes. In other words, once the nuclear option is detonated and a new Senate precedent is established, this body will be subject to the whim of any group of 51 Senators who want to impose their will without any provisions for extended debate. Make no mistake, this will be the end of the Senate as we know it.

How ironic that this is being done by Senators who call themselves conservative. The truth is that resort to the nuclear option, breaking the rules, making up new rules convenient to the leadership, is a radical, unprecedented action with consequences that no one can predict. Because once the rules are broken and rules are made up as one goes along, seeds of anarchy, of chaos, are sown. An atmosphere of anything goes is created, and the end justifies the means.

We have already seen this in the actions of House Majority Leader TOM DELAY. We have an honored tradition that congressional redistricting occurs every 10 years after the decennial census, but the majority leader in the House wanted to increase his majority in the House. So what did he do? He tore up the rules and made up new rules, TOM DELAY's rules. But the real Tom DeLay rule is this: Anything goes. The end justifies the means. Situational ethics. I fear we are about to adopt that Tom DeLay rule in the Senate. This is profoundly bad news for this institution.

I am also concerned about the message it sends to businesspeople, to husbands and wives, to our people. The message is if our national leaders can break the rules as a matter of convenience, if they can write their own rules, impose them on others, then maybe it is okay for everyone else to behave just like that.

This is a deeply disturbing prospect. I implore the distinguished majority leader, Senator FRIST, to consider the law of unintended consequences. He is threatening to break rule XXII in order to pass 100 percent of the President's judicial nominees. Once the rule is destroyed, and once the majority leader imposes a new rule to his liking, then who is to say where it will lead? It will be like an out-of-control virus. If 51 Senators can change any rule at any time for any reason, then anything is possible. The metaphor Senators are using is a ''nuclear option,'' and I would say that is true, it is nuclear because it does blow up this place. But there may be another metaphor, too: that the majority leader is letting the genie out of the bottle and there will be no putting that genie back once it is out. It will wreak destruction in ways no one now can predict or foresee.

For example, once the Chair can make a determination about the rules and have that ruling upheld by 51 votes of the Senate, what is to say of the time-honored tradition we have in the Senate of a Senator being able to have the right of the floor and being able to speak for as long as he or she wants? That has been our right since the

founding of the Senate. Once a Senator is recognized, that Senator can speak until they drop. I think the record is 24 or 25 hours, by former Senator Strom Thurmond.

Who is to say if, in the future, someone gets up to speak but people want to move on and do something, that after that person speaks for 5 or 10 hours the majority leader would be recognized and make a point of order that the person is speaking unconstitutionally? They have the 51 votes to uphold the motion and that is the end of it. So a Senator's right to have the floor is subject to whatever the Chair wants. We may get it; we may not. We may not be able to speak for an hour or 2 hours or whatever we want. The Chair may say to the Senator from Iowa, You can speak for 3 minutes and then you have to sit down.

They do that in the House of Representatives. They have a 5-minute rule. I know, I served there. But that is not the Senate.

I am just saying who knows what might happen. It is possible. If we go down this road that is the precedent that is set.

I do not know why the majority leader is doing this. Possibly what we are seeing here is an attempt to seize absolute power and unchecked control of all three branches of Government. The Republicans already control the executive branch. A majority of Supreme Court Justices are Republican nominees. So are the majority of judges on our Courts of Appeal, the circuit courts. Indeed, there is a Republican majority on 10 of the 12 circuits. Republicans have an iron grip on the House of Representatives. They have a 55-seat majority here in the Senate. Only one barrier now stands in the way of the Republican Party seizing absolute control of every aspect of our Government, all three branches, and that is the right of the minority in the Senate to filibuster.

By unleashing the nuclear option, the Republican leadership would crush this last remaining check on its power. The filibuster is a more than 200-year-old tradition in the Senate; it has withstood the test of time.

I do not believe the nuclear option reflects the desires or values of the American people. Americans are extremely wary of one-party dominance and control. This is a prime reason why so many voters split their ballots In the election last November. Republicans won the White House with less than 51 percent of the popular vote. The Republicans have a 52-percent majority in the House. They have a 55-percent majority here in the Senate. But they want to seize 100-percent control of the Government, including the third branch, the judicial branch.

It is not healthy for our country. It is not healthy for our democracy. I do not believe for 1 minute this power grab reflects the wishes of the American people. When it comes to government, there are certain values and principles that the vast majority of Americans share. We prize our system of checks and balances. We respect minority rights and dissent. We want to ensure that minorities are protected. We understand the danger of majorities acting without check or restraint, running roughshod over those who would disagree.

As a well-known minister once said:

> Democracy exists not just when the majority rules, but when the minority is absolutely safe.

> The rules of the Senate and the rule of extended debate give the minority that absolute safety. You take that away and you take away the minority rights in the Senate. Most Americans understand that checks and balances are the key to preserving our liberty.

James Madison wrote:

> The accumulation of all powers, legislative, executive and judiciary, in the same hands may justly be pronounced the very definition of tyranny.

But that is exactly the goal of the Republican leadership today. They seek the accumulation of all power—legislative, executive, and judiciary—in the same hands, their hands. This is profoundly dangerous. By resorting to the nuclear option, the majority would break the rules in order to change the rules. Under the rules of the Senate, it takes 67 votes to change the rules, 60 votes to end debate on a judicial nominee. But by resorting to this parliamentary gimmick, this nuclear option, the majority would change this rule with only 51 votes. The result would be to destroy any check or restraining influence on the power of the majority. This is not the American way. It is certainly not the wishes of the American people.

In debate in the Constitutional Convention in Philadelphia, James Madison said the Senate would have two roles:

> first, to protect the people against their rulers, secondly, to protect the people against the transient impressions into which they themselves might be led.

By attacking the filibuster, the Republican leaders would destroy the ability of the Senate to ''protect the people against their rulers.'' The Senate would lose its capacity to stand up to an out-of-control majority. Instead, the Senate would be turned into a rubberstamp for the majority's agenda, just as the House is a rubberstamp for the majority's agenda right now. That would be a betrayal of the Senate's traditional role as envisioned by the Founding Fathers.

The Constitution gave Senators 6-year terms so they would not bend to the political passions of the moment. I remind my colleagues of the famous exchange between Thomas Jefferson and George Washington. On his return from France, Jefferson asked Washington at the breakfast table why he favored the creation of a second Chamber, the Senate.

Washington replied with the question, ''Why did you pour that coffee into your saucer?''

Jefferson said, ''To cool it.''

To which Washington reportedly said: ''Even so we pour legislation into the senatorial saucer to cool it.''

For two centuries that is exactly how the Senate has worked. Because of the tradition of free speech and minority rights, specifically because of the threat of filibuster, Senators have a strong incentive to act with moderation and restraint, to make compromises, to accommodate the legitimate concerns of the minority. That is exactly what the nuclear option would demolish.

The majority party in the Senate, whether Democratic or Republican, has always been frustrated by the minority's use of the filibuster. But I submit that frustration is the necessary by-product of an effective system of checks and balances. It is the price we pay to safeguard minority rights.

For decades, a determined conservative minority used the filibuster to block civil rights legislation and deny an up-or-down vote to a liberal Supreme Court nominee, Abe Fortas. Progressives were extremely frustrated by this exercise of minority rights and minority power.

Now it is the Republicans' turn to be frustrated by the filibuster. They are frustrated because they can't get their way on judges 100 percent of the time. They have gotten their way on 95 percent of judicial nominees, but not 100 percent, and they believe this justifies breaking the rules, to get rid of the filibuster.

I submit the Republicans' very frustration is evidence that the system of checks and balances here in the Senate is healthy and working, working exactly as it should.

In 1995, I proposed to modify rule XXII in a way that would have given the minority an incentive to limit the use of the filibuster. It would not have taken it away. However, my proposal bore no resemblance to the nuclear option. First, I did not propose to break the Senate rules. I played strictly by the rules. I pursued my rule change through normal Senate procedures as a floor amendment. It would have taken the requisite 67 votes to pass on the floor, which is entirely appropriate when changing a time-honored Senate rule. By contrast, this nuclear option discards the rules. It would impose the Republicans' radical change with only 51 votes.

Ten years ago I proposed to modify the filibuster rule as a matter of principle. Today the Republican leadership wants to modify the filibuster as a matter of political expedience, to make it possible to stack the courts with radical judges. They are pursuing unchecked power, the absolute control of all three branches of Government. In this context, the filibuster takes on even new importance.

It is all that remains to check the majority's quest for absolute power.

By the way, I might note parenthetically that 24 current Republican Senators actually voted against my proposed change to the filibuster back in 1995. The distinguished majority leader, Mr. FRIST, was one of those Republicans opposing any change to the filibuster. Indeed, as has been noted time and time again, the majority leader voted in the year 2000, 5 years ago, to sustain a filibuster of a Clinton nominee, as did many other Republicans.

Those same Republicans, who now say President Bush's judicial nominees have a constitutional right to an up-or-down vote on the Senate floor, denied that alleged right to scores and scores of President Clinton's judicial nominees, including, as I said earlier, a distinguished Iowan, Bonnie Campbell. Ms. Campbell, a former Iowa attorney general, respected Justice Department official, was nominated for the Eighth U.S. Circuit Court, but her nomination was blocked in committee.

Let's be clear. If the issue is denying nominees an up-or-down vote by the full Senate, there is no practical difference whatsoever between blocking a nominee in committee or by filibuster on the floor. During the Clinton years, Republicans blocked judicial nominees again and again and again. They did it in committee, they did it by blue slip, or they blocked them on the floor. It didn't matter. But the nominees were denied an up-or-down vote on the floor of the Senate.

The nuclear option is a flagrant abuse of power. The minority party, the Democrats, will resist it vigorously within the rules of the Senate. We have a responsibility, an oath of office to defend our constitutional system of checks and balances. We have a responsibility to defend the Senate's unique function as the last bastion of minority rights, as the last check on an abusive, out-of-control majority.

But this should not be just the responsibility of the minority party. It should be the responsibility of all Senators who respect the rules and traditions of this body. It should be the duty of all Senators who value our democratic principles, our system of checks and balances, protection of minority rights.

The very nature of the Senate as an institution is at stake. More than that, the very nature of how we operate as a government is at stake. As I said, when you destroy the rules by not following the rules, you invite chaos. Chaos invites tyranny. This is the time to look beyond party, to look beyond short-term partisan advantage.

I have every hope there will be enough Senators, Democrats and Republicans alike, to disarm this destructive nuclear option. I have every hope that a critical mass of Senators will be true to the rules and traditions of this body and that we will act to preserve the integrity and independence of this great institution.

I yield the floor.

The PRESIDING OFFICER. The assistant Democrat leader.

Mr. DURBIN. I thank the Senator from Iowa for making clear that when he offered his change in the rules relative to the filibuster, he did it according to the rules. When Senator HARKIN suggested that we change the number of votes necessary for a filibuster, he used the rules of the Senate, he followed the rules of the Senate. He understood it would take 67 votes for him to succeed and he pressed forward.

If the Republican majority today did exactly as Senator HARKIN did, there would be no discussion of a nuclear option. We would move to that point in the calendar, we would take the vote according to the rules, and no one would be paying much attention because that is the routine of the Senate. We would be following the rules of the Senate.

The unique situation now presenting itself with the nuclear option is that the Republican majority is going to break the rules of the Senate in order to change them. Instead of following Senator HARKIN's model and example of 67 votes, they will bring Vice President CHENEY to the chair, they will ask him to rule as a Presiding Officer of the Senate that the rules are going to be changed, he will make that pronouncement, and that is the end of the story. They will be breaking the rules of the Senate to change them.

That is the unique difference between what Senator HARKIN did many years ago and what the Republican majority does today. It is historic. That is why so many people are following this debate. People who never heard of the nuclear option are following this debate. They understand something historic is about to take place: changing a tradition, changing something in the Senate, a rule that has been in place for over 200 years. With the wave of his hand, Vice President CHENEY will take away a rule that has applied for 200 years.

Some argue this should be viewed as another routine day in the Senate. I disagree. This is a historic debate and one on which I hope the American people are focusing. Changing the rules in the middle of the game is not accepted in most conduct in America. It shouldn't be accepted in the Senate. Changing the constitutional balance of the Senate and the White House is historic and should be followed closely by every single American.

My colleague, the Senator from Kentucky, came to the Senate earlier and suggested that we should go about the routine business of the Senate while this debate continues. We see it otherwise. We believe we should focus in the Senate, as the people of America should focus on this critical debate, with very few exceptions. If there are exceptions relating to committee activity on national security or things of that nature, we will consider each and every one of those, but the routine business of the Senate must be held up while we engage in this.

The core reason for this debate is the approval of judges. Since President Bush was elected, more than 95 percent of his judicial nominees have been approved, the highest approval rating of any President in the last 25 years. Again, 208 have been approved, 10 have not been approved, and the President says: That's not good enough; I want them all. No dissent, no disagreement, give me every single judge.

That is the reason we are here debating. To make it clear to those following the debate, we are prepared, on a bipartisan basis, to work with the White House and the Republicans to continue to approve judges, as we have already done 208 times with this administration. I am about to make a unanimous consent request that will be followed by another, and let me describe it first before I make it. We have had one man's name on the calendar longer than the pending nominee, Priscilla Owen: Thomas Griffith of Utah, nominated to serve as circuit judge for the District of Columbia. I voted for him as a Democrat, coming out of the Senate Judiciary Committee. He has been on the calendar since April 14.

As a show of good faith, as a show of bipartisanship, to demonstrate we can work together, we can achieve things when we speak to one another and when we respect one another, I will make a unanimous consent request to move from the current business immediately to the Executive Calendar to bring his name to the Senate with debate of, say, 1 hour, and that he be voted on today.

Then when I am finished, as the minority leader, Senator REID, did yesterday, I will ask that we discharge the Senate Judiciary Committee and immediately consider the Michigan Circuit Court nominees of Griffin, McKeague, and Neilson. I will, of course, allow that unanimous consent request to be amended in terms of debate time necessary for each nominee, but we can in a matter of a few hours move four circuit judges through this Chamber on a bipartisan basis and demonstrate that there is no need to describe our situation as a crisis. There is no need to change a 200-year tradition of the Senate. There is no need to call in Vice President CHENEY to wipe out a rule that we can work on together. I think that is what we should do.

I ask unanimous consent we move to the nomination of Thomas B. Griffith of Utah to be U.S. circuit judge for the District of Columbia and that Mr. Griffith's nomination be considered with 1 hour of debate equally divided, and then have a rollcall vote. I make that unanimous consent request.

Mr. MCCONNELL. Reserving the right to object, and I will object, let me say to my good friend from Illinois, this is a scheduling issue. His party was in the majority for 18 months between 2001 and 2002. Then, Majority Leader Daschle got to decide the order of matters to be considered in the Senate. That is the prerogative of the majority leader.

I am certainly pleased to hear of the enthusiastic support of my good friend from Illinois for the nominee, Griffith. Nevertheless, the majority leader, Senator FRIST, is charged with the responsibility of determining the order in the Senate. We are on a nomination that enjoys bipartisan support, a majority of bipartisan support, and that is Texas Supreme Court Judge Priscilla Owen.

I am of the belief that some of the efforts to shut down the activities of the Senate may be coming to a close, and I will seek the floor for the purpose of offering a unanimous consent to allow the Foreign Relations Committee to at least meet, which is good news. Unfortunately, other committees are still shut down by not following the normal procedure in the Senate where committees are busily at work while action is occurring on the Senate floor. As a result of actions in the last 2 days, the Energy bill is thwarted, the JOBS bill is thwarted, disaster relief is thwarted, and a closed intelligence meeting was not held again today. The Energy bill, the HELP Committee is out of action today. Asbestos is not going forward.

All of these efforts to delay activity in the Senate, to shut down the Senate are not necessary. It is routine in the Senate for committees to be doing work while we have debate on the floor. Nothing extraordinary is happening on the floor. We are following regular order. The majority leader, as is his right, had called up a nomination, and we are debating it.

We will get around to Mr. Griffith, and I am certainly pleased to hear that the assistant minority leader is in favor of him. That is good news. That is one, when we turn to him, I look forward to confirming with not a great deal of debate.

With regard to the current consent agreement, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. DURBIN. Mr. President, let me say it is clear now this is not about moving judges forward because I have offered an opportunity for the Republican majority to move a circuit judge in Utah forward on a bipartisan basis, as most of President Bush's nominees have been moved forward. It is about the fact that President Bush has not had every single nominee he sent to Congress approved. More than 95 percent have been approved.

There is another controversy relating to the State of Michigan—and I see my colleague, Senator STABENOW, is here—a controversy that goes back to the Clinton administration when a systematic effort was made to deny any nominee, virtually any nominee sent by the Clinton White House to the Senate Judiciary Committee, the opportunity for a hearing and fair consideration.

Naturally, the Senators from Michigan were upset that very qualified men and women were not given a chance to present their credentials and to come to a hearing and have a committee vote. Over the years they have expressed that concern and asked there be some balance in the nominations to fill the vacancies.

At this point, I ask unanimous consent we set aside the pending business of the Senate, discharge the Senate Judiciary Committee from further consideration and immediately consider the nomination of Michigan Circuit Court nominees Griffin, McKeague, and Neilson.

Mr. MCCONNELL. Reserving the right to object, and I will object, once again, it is good news to hear the Senator from Illinois is going to be supportive of three circuit judges from Michigan who have been denied an opportunity to have an up-or-down vote for many years. The majority leader certainly has on his list for very near future consideration all of those judges, and I am pleased to hear they will be in all likelihood approved when they are brought up at a time of the majority leader's designation.

Let me repeat, all we are looking for is an up-or-down vote. We are not looking for a guaranteed outcome. But my friend from Illinois is probably suspicious that there will be success if up-or-down votes are granted because all of the judges who have been pending have bipartisan majority support.

We will look forward to dealing with all of the judges the Senator from Illinois would like to schedule, instead of the majority leader, in the very near future, but in the meantime we are dealing with the nomination of Justice Priscilla Owen to the Fifth Circuit.

Mr. President, I object.

Mr. DURBIN. Let me close briefly and say if the argument is being made by the Republican side that there is committee activity that should go on that is more important than this constitutional debate on the floor of the Senate, I would also make the argument that there is important floor activity that just could have taken place. We could have approved four more judges for President Bush at the circuit level, moved forward on a bipartisan basis, and done it before lunch.

It was the decision on the Republican majority side that rather than bring this to a vote, bring it to closure, make progress, show we are working together on a bipartisan basis, instead they are going to continue to press for the so-called nuclear option so that Vice President CHENEY can wipe away a 200-year tradition in the Senate with the wave of a hand. Unfortunately, that is a sad commentary on where we stand today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise today to speak about both the pending nomination and also the overall process involved in the debate on free speech and checks and balances.

Let me first thank and support the efforts of our Democrat minority leader from Illinois and thank him for his eloquence on this issue and indicate that despite concerns about the process now and the lack of bipartisanship in the Sixth Circuit for the last 4½ years and the lack of ability to come together in a way to jointly support nominees given the context of this larger debate right now and the critical importance of maintaining the minority views in the Senate and our ability to fight for our States and what is important for us both, Senator LEVIN and I have agreed to allow us to move forward in a show of bipartisan cooperation, a show of good faith with our colleagues on the other side of the aisle, to move forward with three nominees for the Sixth Circuit.

It is very disappointing to once again see that motion has an objection rather than moving ahead. In fact, last week, when our leader, Senator REID, made that motion to move forward on three judges in order to be able to get us moving in the right direction in terms of bipartisanship, the majority leader objected to moving forward on the three Michigan nominees and immediately went to a press conference with House Republicans from Michigan to criticize us for not being willing to compromise and move forward on Sixth Circuit nominees.

This kind of politics is very disturbing and very unfortunate when we are trying very much to move forward and to break this gridlock and create an atmosphere where we can continue to work together on the issue of judges. Again, let me say that it is very unfortunate that the majority leader said that three out of four judges was not enough. There is an objection, a concern on both sides of the aisle, of one of the nominees, but we have been willing in good faith to move forward with three of the nominees and have for 4½ years been meeting with the administration, with colleagues on both sides of the aisle, offering bipartisan solutions such as what other States do in terms of bipartisan commissions to be able to move us forward. At every turn we have been told, ''no.''

Now when we come forward and say, let's move to three of those judges in the interest of the larger picture in terms of what is happening in the attempt to eliminate checks and balances in our constitutional process, we, once again, are hearing, ''no.''

I find that very unfortunate. But I think it points to the fact that what we are seeing is a fundamental debate, not about judges, but it is about free speech. It is about our constitutional system of checks and balances. We have to constantly refer to the fact, as has been said before on the floor, that if it was about judges, the administration should be celebrating the best record in 25 years of Presidents of either party: 208 to 10. There have been 208 judges confirmed on a bipartisan basis, to 10 whom we have objected to because they are incredibly outside of the mainstream of American thought. The best record in 25 years: 208 to 10.

What is this debate about? Well, unfortunately, it is about the fact that

we have one party—we respect that. We understand one party is in control of the White House, the House, and the Senate, but they do not have 100 percent. There are people who elected others, elected Democratic Senators or Democratic House Members. They want their views to be represented as well in this democracy, where we work together to find compromise and balance and what is best, ideally, for everyone but certainly for the majority of Americans on any one decision.

But we are hearing, instead: No, we want total, absolute, complete power over what happens in the United States. That is not a democracy. In fact, we are very fortunate that our Founders understood the importance of checks and balances in putting together not only a House of Representatives, that reflects the instant will of the people, but also a Senate, with a longer term—instead of a 2-year term, a 6-year term—that is charged with carefully evaluating the impact of legislation in a longer term view. In other words, the House is the ''gas pedal,'' and the Senate was designed as the ''brake.'' So we can have the important debates occurring in the House, and in the Senate have them as well, but allow minority views to be represented in a different kind of way.

On the issue of judges, our Founders were very clear. It is the third branch of Government, with lifetime appointments. It is not the President's Cabinet. I supported nominees to the President's Cabinet who personally I would not have selected. But the President has a right, within every reason, to his team for his 4 years. I have supported those.

But this is a third branch of Government, with lifetime appointments, so our Founders said: We are going to give half of that responsibility to the President and half of that responsibility to the Senate. So given our half of the responsibility, again, we have agreed to 208 judges on a bipartisan basis. And using our half of the responsibility, we have objected to 10. That is the record: objected to 10. And why? Because those individuals, again, do not represent mainstream thought and would be filling lifetime appointments—not for 3 or 4 years, but for three or four decades—long beyond any of us in our participation here in the Senate or this President.

So it is important to remember that in putting together our Constitution and our Bill of Rights, our Founders, were very wise. I think we are very fortunate we had a group of people come together to create these checks and balances.

It is not about just partisanship, Democrats and Republicans, it is about big States and small States. It is about Great Lakes States and States that do not have water. The reality is, we have a system of checks and balances that has allowed us to come together and create compromise, allowed us to create more mainstream decisions, because we have something called a filibuster which says a Senator can stand up, and as long as their legs will allow or their voice will allow, they can stand up and speak their mind on behalf of the people they represent, and they have the opportunity to put forward their view.

It is the minority view—not the minority party view. It may be a single person's view, but the minority view can be heard. And because a Senator or two or three or four believe so passionately about something, the rules then require you have to get a few more people to agree, you have to get 60 votes, rather than 51, because of the strong concerns raised by individual Members.

Now, what does that mean for us in Michigan? This is not just about judges. In Michigan, we are very proud of our Great Lakes. We are proud of the fact that we not only have our Great Lakes for drinking water, but for boating and tourism and economic activity. But one of the things we are concerned about in Michigan is the fact that someday the States in the West and the South that do not have a lot of water may decide they might want our water. Well, we do not like that very much.

Right now, I feel very confident that Senator LEVIN and I, and other Great Lakes Senators, would be able to stand up and present the minority view, to be able to use the rules of the Senate to protect our water. What happens if that is gone? What happens if we no longer can express as to and fight for our State because the checks and the balances have changed?

This is not just about judges. What about Social Security? If, in fact, the rules can be changed on judges, what about privatizing Social Security? Right now, we have a significant number of people to be able to stop the movement to dismantle Social Security, the great American success story. But what if the rules change and the checks and balances change?

The whole point of checks and balances, the whole point of allowing extended debate and forcing compromise and people coming together, is to bring people with calmer minds to be able to listen to each other and to be able to forge a bipartisan compromise. For Senators, whether it is their view as a Democrat or Republican or their view from their State or their view because of some other consideration which causes them to feel so passionately that what is being put forward is wrong, it forces us to work together. That is a great thing. That is something we have benefited from as a country. We need to protect that as Americans.

Let me say also that it is very ironic, as we are talking about the filibuster—I find particularly in Michigan—that when we talk about the filibuster, and so on, as if it has never been done before, colleagues of mine who have been around for a while may remember Abe Fortas who was nominated for Chief Justice back in 1968. I will not tell you where I was in 1968, but it is a little before my time here. But it is interesting to note that one of the Senators who filibustered the Justice at that time, in 1968, was a Michigan Republican Senator, Senator Robert Griffin.

What is particularly noteworthy is that he is the father of one of the nominees to the Sixth Circuit who, in fact, we just tried to move forward right now and were stopped in so doing. But it is important to note that Senator Griffin, on the floor, in his debate, in his speech about why it is appropriate for Senators to be able to stand up and object and to filibuster on judiciary nominations, said:

It is important to realize that it has not been unusual—

This is 1968.

it has not been unusual for the Senate to indicate its lack of approval for a nomination by just making sure that it never came to a vote on the merits. And as I said before, 21 nominations to the court have failed to win Senate approval.

This is Senator Griffin in 1968:

But only nine of that number have been rejected on a direct up-or-down vote.

In other words, Senator Griffin acknowledged, back in 1968, that it was not unusual for this Senate to filibuster judicial nominees. I think there is a lesson here. If the Republicans are currently concerned about filibusters, they should listen to what the father of one of the pending nominees, a Republican, said about filibusters and checks and balances.

Once again, the reality is, I do not believe this is about filibusters in the context of judges because, look: 208 to 10; 208 approved, on a bipartisan basis, to 10. This is about whether we will have free speech in the Senate and, I believe, in our country through its elected Senators. This is about whether there will be checks and balances in our Government that allow those rare occasions—with the 10—for people to say: No. You have gone too far, Mr. President. With all due respect, your nominations have gone too far. And on behalf of the people we represent, we have the responsibility to stand up and say, stop, send us another nominee. Send us someone in the mainstream. Send us someone who will, in fact, represent the interests of a majority of Americans.

That is not what is happening today. We are being told: It is all or nothing. In the Sixth Circuit it is all or nothing. Three out of four judges is not good enough. We are being told here: It is all or nothing. It is about complete and absolute power, no checks and balances. In other countries they call that a dictatorship. We have a democracy. We respect and allow other views to be heard. We do not have to agree with them, but we allow them to be heard in our country's democracy. And we create a way, through the Senate, to force people to come together and listen to each other, and to be able to compromise in the very best sense of the

word so we can create decisions, whether it be nominations for judges, or whether it be other decisions that affect the families we represent, in a way that has balance and common sense.

That is what we are talking about. We are talking about the ability to fight for your State, the ability to stand up for your values and principles, to fight for what you believe is right, the ability to ask others to join you in that, the ability to say to the President of the United States: Ninety-five percent is a great record. Two hundred eight is a great record. But, Mr. President, these 10 go too far. These 10 will turn us back in terms of protecting the rights of Americans, and we are asking you to work with us on these 10.

That is not an unreasonable request. Fundamentally, what we are talking about is whether we are going to continue to value free speech in our country. Doing away with the ability for us to speak and to be able to require a majority vote of 60 votes in order to be able to move forward on controversial issues is the first step of taking away free speech. I am very hopeful when the vote comes that men and women of dignity and respect and good conscience on both sides of the aisle will say, no, this is not about party. It should not be about party. It should be about what is best for the country. It should be about protecting the greatest Constitution in the world, the greatest Bill of Rights in the world.

We have men and women of good conscience on both sides of the aisle who I know want to do what is right. I hope it is going to be a very proud day, if this comes to a vote, and we have the bipartisan support of folks standing together and saying: We can do better than this. We can work together and maintain the ability for the minority view to be heard in the Senate on behalf of the people of this country.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Mr. President, I thank the Chair and our side for the time to speak on this issue.

This is an issue and a moment in Senate history which, frankly, I wished there could have been found a way to have avoided. I have been among those who have said to my leader: You have a qualified yes for my support to try and negotiate. Those negotiations have apparently broken down. So then it falls to each of us to study and to take as seriously as we can the weight and moment of this decision and how we should come down on the issue of filibustering judges who have majority support.

I ran for the Senate because I value this body, appreciate its unique role in the history of our Nation, and very much want to see it succeed in doing the people's business. So I have taken as seriously as I can the decision I have made to be an unqualified supporter of what the majority leader is attempting to do here.

When I ran for the Senate, I promised the people of Oregon that when it came to advising and consenting on judges, I would not have a litmus test, that I would respect the results of elections, that I would evaluate nominees for their academic achievement, their judicial temperament, for their personal integrity, and I would then vote on that basis without regard to a cultural litmus test.

I tried to demonstrate that when President Clinton was living at 1600 Pennsylvania Avenue, although I was not on the Judiciary Committee, I followed closely the deliberations of that committee under the leadership of Senator HATCH. There were a number of Democratic nominees that I specifically advocated for and tried very hard to help in their confirmation, and in the most part succeeded, even though their views were different from mine on a range of issues. I remember, in particular, the work of the committee on two controversial judges who were, by every measure, on the left wing of the spectrum politically, Judge Berzon and Judge Paez.

I remember Senator HATCH got them out of the committee, and I remembered my promise to the people of Oregon. One of our colleagues began to filibuster against proceeding in violation of what had been a gentleman's agreement of 200 years and more; that is, you don't filibuster judges when they clear the committee process and they come to a vote. So I voted in both instances to invoke cloture and then to confirm their ascension to the appellate court. I remember hearing a lot of disgruntlement by conservatives in Oregon who felt very strongly that they should be defeated.

But I do think elections have consequences. Presidents have rights and we have a role to play in advising and consenting. But I also feel that when we use the Senate rules to essentially overturn the right of a President and the result of an election, we do more than just violence to the executive branch of Government. We do serious injury to the judicial branch of Government. And we send a chilling effect into judges' chambers that they are going to then, in the future, be held to a standard that is so politicized that the best and brightest of liberal and conservative minds need no longer apply for service in the Federal judiciary.

Reflecting upon what I did under President Clinton, I have tried to be consistent in my advice and consent during the administration of George W. Bush. I also have noted, in history and through my 10 years here, that at the end of every Presidential term it is the common practice in the Senate to slow down the nomination process awaiting the results of an election. This happened to President Carter, it happened to President Reagan, it happened to George Hubert Walker Bush, and to Bill Clinton as well. But we are faced now with a new standard. The agreement of the Senate that has been around for 214 years was changed in the last Congress. The 108th Senate began to filibuster on the floor judges that had cleared committee, judges that had demonstrable majority support. The question that faces us now is a clash of two principles: Do we accede to this new Senate rule that has the standard no longer of 51 votes but the standard of 60 votes or do we go back to that standard by changing a Senate rule making explicit what had before been an understanding among colleagues?

I believe we are in a place now that we have to go back to the standard that this Chamber has operated under for 214 years. I think to do otherwise has a long-term impact that is negative for the third branch of our Government, the judiciary.

As Senator DURBIN, the assistant minority leader, would probably like to know, this is one Republican who does listen to him and I was listening to him last night when he spoke about Priscilla Owen. I heard his comments earlier when she had come up for confirmation in the 108th Congress, and among the many things held against her was her membership in the Federalist Society. The Federalist Society is something I have never belonged to. When I was in law school, I did not know about it. But it is an organization that believes apparently the judicial branch of Government should strictly construe the laws and be reluctant to get into political questions, to leave the democratic processes working, and to strictly interpret their judgments from the black letter of the law. I do, however, remember when I was in law school that one organization was very active in recruiting, and that was the American Civil Liberties Union. That is an organization that believes it stands for the protection of the Bill of Rights and believes that those who should be on the court should expansively interpret those rights. As I understood the assistant Democratic leader, he was saying that Judge Owen's membership in the Federalist Society should disqualify her. Well, if that is now the standard—and, Mr. President, it will be the standard if the new Senate rule is 60 votes—then I promise my friends on the Democratic side that there will probably be more than 40 Senators on this side who in the future will hold ACLU membership against nominees.

I think that is a mistake. I think guilt by association, whatever you think of these organizations, should not be disqualifying of nominees from the Federal bench. If the standard that he erects for Priscilla Owen had been in place when Ruth Bader Ginsburg was nominated to the Court, she would not have been confirmed.

I have also noted with some interest, while it is never held up as a religious test, great concern for nominees who are devout members of their religious faith, fearing that their beliefs and their faith would affect their judgment

on the bench. Mr. President, I believe the Constitution is explicit in making clear that we do not have religious tests for public office. I do not accuse any of my Democratic colleagues of religious bias, but I do hear a fearful undertone, an undercurrent here that I think will bar the door to judicial service to people of faith if we set or keep the standard at 60.

Mr. President, I come to this place believing that the brightest of conservative and liberal thinkers best serve American justice and the evolution of American law rather than having a standard that says if you are unwritten and unrevealed and unaffiliated, you have a chance, but if you are a Member of a political organization, if you are affiliated with the Heritage Institute or the Brookings Institute or you are a member of a religious faith, these standards will begin to erect barriers to service in public office. I think that is a very dangerous thing.

After my own law school experience, I had the privilege of serving as the law clerk to the chief justice of the New Mexico Supreme Court, Vern Payne. It was my observation in those chambers that the judges that made the most difference for good in the administration of equal protection and due process were those on the right and the left that had clear feelings and a compassion that guided their decisions. I do think we make a serious long-term mistake and do very real damage to American law when we say only those in the middle can serve. But that is what the standard of 60 will mean in the future of American law if that is now the rule of the Senate.

If you study the filibuster, you will find that this is a right that Senators have that has evolved out of a mistake in leaving out a Senate rule that originally governed this body. But unlimited debate became the standard, and yet it also became the vehicle by which much of America's business was left undone. Sometimes it was used to odious ends, such as the denial of an African-American's civil rights. Long before I ever arrived here, colleagues of former days began to change, refine, and limit the use of the filibuster. I have heard my colleagues on the other side describe this right in terms which make it secular scripture or that this is in the Constitution. It is not in the Constitution. But it is an important right, I grant.

What the public is not hearing is that there are several calendars of business that we take up. There is the Legislative Calendar. We are the legislative branch. Then there is the Executive Calendar in which we take up advice and consent on executive appointments both to the executive branch and to the judicial branch. When you get to the Executive Calendar, you really do get to the checks and balances. And the question is why was it for more than 200 years the gentleman's agreement was that you do not filibuster these nominees, you give them an up-or-down vote for so long? And the reason was simply because it did have an impact upon other branches of Government.

No one here is proposing a limitation of filibusters on the legislative calendar.

Nevertheless, in former years, our colleagues made many modifications to the filibuster rule. It began in 1917. There was no limit to filibusters until then. The standard was then set at 67 votes to invoke cloture, end debate, and go to a vote. But still, this was not a standard applied to the Executive Calendar.

Further on, many changes have been made to the filibuster rights of a Senator. There are, in fact, 26 laws on our books today abrogating the right of a Senator to filibuster. For example, you cannot filibuster a Federal budget resolution. It was known as the Congressional Budget and Impoundment Control Act of 1974. The Budget Act of 1974 restricts debate on a budget resolution and all amendments thereto and debatable motions and appeals in connection therewith to not more than 50 hours. That is a very significant restriction on the right of a Senator to filibuster.

Another restriction is that you cannot filibuster a reconciliation bill. Like the budget amendment, a reconciliation bill cannot be filibustered on the Senate floor, so it can pass by a majority vote. So you cannot filibuster anything connected with a resolution or reconciliation, such as an amendment or a conference report.

I think the public would be surprised to know that at the end of a session, when the work of the Finance Committee and much of the work of the Appropriations Committee comes to this floor, usually in a big omnibus bill or reconciliation package, it passes by a majority vote because it cannot be filibustered. In fact, I suspect half of the work we end up doing here, because of decisions made in former days, is not the subject of filibuster, even though it is part of the legislative calendar.

Another instance: You cannot filibuster a resolution authorizing the use of force—the War Powers Resolution. You cannot filibuster international trade agreements, and that is called the Bipartisan Trade Promotion Authority. You cannot filibuster legislation under the Nuclear Waste Policy Act of 1982.

Time and again, our colleagues before have recognized that to move the business of the United States, there had to be some kind of limits. When I speak of the filibuster, I speak of it respectfully; I also understand its importance to slow down debate and to give Senators all the opportunity they need for debate. But I also understand that the country's business has to move forward. So colleagues, in former decades, have narrowed the right of the filibuster.

One of the Senators in this Chamber who preceded me here from Oregon is a man much esteemed in Oregon lore. His name was Wayne Morse, known as the ''tiger of the Senate.'' He is the third place recordholder for a filibuster, exceeded only by Strom Thurmond and Al D'Amato. As I recollect, he spoke for 22 hours and 26 minutes on the tidelands oil bill in 1953. I suspect, if you check the record, few Senators used the filibuster more than Wayne Morse. He used to come here late at night and speak well into the night almost on a daily basis when the Senate was in session.

But listen to what Wayne Morse said about the filibuster:

> It is time we got back to the original purpose of the Founding Fathers and of the U.S. Senate. That purpose is to give reflection, continuity, and dispassion to legislation. These certainly do not extend to giving a veto power to a dissident minority. The Constitution is clear about when a two-thirds vote is required to make a decision. Those who want to add to those instances might better be honest about their intentions and come forward with a constitutional amendment, rather than to seek to achieve their purpose by the means of Senate rules.

What Senator Morse was referring to is that the U.S. Constitution makes explicit those instances in which supermajorities are required. Advising and consenting on judges is not among those. It is required for amending the Constitution, it is required to override a President's veto, it is required for the ratification of treaties, and in a couple more instances. But this issue is not among those expressed in the Constitution.

To clarify, Senator Morse states that he supports the use of filibusters. He said:

> I am one liberal who admits that he filibusters.

Yet he draws a distinction between filibusters which control debate and a filibuster designed to prevent a vote from ever occurring, which subjects the Senate to rule by the minority.

He went on to say:

> It is one thing to filibuster to stop what is called a ''steamroller'' in the Senate, to stop a majority from taking advantage of a parliamentary minority. It is quite another thing to filibuster in the Senate under a program which is aimed to defeat the right of the majority to express itself by way of the passage of legislation, which in turn will be subject to the checks which our constitutional system provides.

There are lots of checks and balances, but right now the 109th Senate has a decision to make—whether or not we should reinstate a two-century tradition of voting up or down on the Executive Calendar for judges. Why? Because it is important to the two other branches of Government. The 108th Congress broke this tradition and 60 is now the rule, unless we come to some other agreement.

Well, again, Mr. President, I do fear the impact of this new standard if we don't do something. I believe this new standard, if applied to past distinguished jurists, would make their confirmation impossible. I believe Oliver Wendell Holmes was revolutionary in

his thinking about law. Felix Frankfurter, a Roosevelt appointee, was certainly revolutionary in his thinking. Thurgood Marshall or William Rehnquist or Justice Scalia—these men, I believe, today, under this new 60-vote standard, would likely be unconfirmable.

I believe this dumbs down American law, and the Senate does a disservice to the meaning of elections and to the important authorities given to the executive and the judicial branches when we raise filibusters to this new level, which I believe says to every bright young law student: If you have a point of view that is clear, if you have a membership in the ACLU or in the Federalist Society, if you are a member of a religious faith or part of a labor union, this will be held against you; it will have a chilling effect on people's ability to make a difference in law. It will certainly be a sword that we will wield when we are in the minority. It is, therefore, with regret but conviction that I assert my support for a rule that will restore the tradition of the Senate on the Executive Calendar.

The Senate rules are not Scripture. They have been changed repeatedly throughout the history of this institution. We may now have to do that again. I had hoped that a compromise could be found. One may yet be found. But I have also come to believe that when you take a deal that says give up on the principle, the tradition, and throw half of these nominees overboard, what is admitted in that offer is that all of these people from whom we can select are qualified for the Federal bench, and what is also admitted by that offer is that this is just about politics.

This is a principle too important to get in the way of the efficient management of our business, our responsibility of advising and consenting, and having back in place the 200-year tradition of giving up-or-down votes to those who have majority support.

With that, I urge my colleagues to support the majority leader, and I urge the restoration of a majority vote on judges.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The assistant majority leader is recognized.

Mr. MCCONNELL. Mr. President, I want to say this to my good friend from Oregon before he leaves the floor. I listened intently to his extremely well-crafted and reasoned arguments, and I congratulate him for his important contribution to this momentous, significant debate we are having in the Senate, trying to get ourselves back to the way we comfortably operated for 214 years. I thank my colleague for his contribution.

Because of the unprecedented obstruction of our Democratic colleagues, the Republican conference intends to restore the principle that, regardless of party, any President's judicial nominees, after full debate, deserve a simple up-or-down vote.

I know that some of our colleagues wish that restoration of this principle were not required. But it is a measured step that my friends on the other side of the aisle have unfortunately made necessary. For the first time in 214 years, they have changed the Senate's ''advise and consent'' responsibilities to ''advise and obstruct.''

Our Democratic friends did not bring us here by accident. For 4 years, they have steered the Senate toward this unfortunate path. In April of 2001, Senate Democrats held a private weekend retreat in Farmington, PA, to hatch a plan of attack against the President's judicial nominees. According to the New York Times, one participant at the meeting said, quote, ''it was important for the Senate to change the ground rules, and there was no obligation to confirm someone just because they are scholarly or erudite.'' And, thus, we embarked on this uncharted course.

Until the last Congress—the 108th Congress—it had been standard procedure not to filibuster judicial nominees. That changed on February 11, 2003. On that day, Senator HATCH, chairman of the Judiciary Committee, sought consent to consider Miguel Estrada's nomination to the DC Circuit Court. My friend, Senator DODD, refused. Senator HATCH offered to increase the amount of time for debate by 10 hours and was refused again. He offered 20 hours. He offered 40 hours. He offered even 50 hours of debate, an unprecedented amount of time. Senator DODD said as follows:

This is not about the amount of time.

We have heard the repeated argument on the other side that this is about the right to speak. Senator DODD said that this is not about the amount of time.

Remember that, Mr. President. The next time you hear any one of our Democratic colleagues complain that when we restore the norms and traditions of the Senate, we will be limiting their right to speak or cutting off debate, they themselves say it is not about that. Such claims actually don't withstand scrutiny. I could not agree more with my friend from Connecticut when he said this current impasse is not about the amount of time available to debate.

The Democratic leader, my friend, Senator REID from Nevada, also agrees with me. When Senator BENNETT requested an agreement to consider the nomination of Justice Priscilla Owen to the Fifth Circuit, Senator BENNETT also bent over backward to give the minority whatever number of hours for debate it needed.

Senator REID responded:

There is not a number in the universe that would be sufficient.

''There is not a number in the universe that would be sufficient.'' Clearly, it must not have been about getting enough time. Our Democratic friends went on to block several more reasonable requests to consider circuit court nominations.

So it is clear the Democrats do not want more time to debate. The minority leader indicated there was not enough time in the universe for that. Rather, a minority of Senators are rejecting the opportunity to debate because they want to kill qualified judicial nominations with clear majority support.

These nomination have gone for 2, 3, even 4 years—the current justice pending on the calendar has been up for 4 years—without a vote, while vacancies on the Federal bench pile up.

Let's take, for example, Justice Priscilla Owen, who is the pending business of the Senate. She was nominated, as I just indicated, by the President 4 years ago to sit on the Fifth Circuit. Justice Owen has served with honor for 10 years on the Texas Supreme Court. She won reelection with a whopping 84 percent of the vote, far more than most of our colleagues who oppose her. She has the support of both Democrats and Republicans from Texas who know her best. She has endured 4 years of slanderous attacks from partisan groups with grace and poise.

All of that meant nothing once she landed in the crosshairs of the Senate's obstructionist minority. We devoted 17 legislative days to discuss her qualifications—17 days—and we have held four cloture votes on Justice Owen's nomination in order to allow the entire Senate to pronounce its collective judgment on her qualifications. But a minority of Senators is determined to deny the Senate the exercise of its constitutional duty. All four cloture votes have failed.

On May 1, 2003, cloture failed on the Owen nomination by a vote of 52 to 44. One week later, it failed 52 to 45. On July 29 of that year, it failed 53 to 43, and on November 14 of that year, it failed 53 to 42. For every one of those votes, Justice Owen had a clear majority and, in fact, bipartisan support. But some continued to do the unthinkable. They continued to set the precedent that only 41 Senators should have the right to dictate to the President who he or she can and cannot appoint to our Federal courts.

Justice Owen is not the only person they have obstructed. In the 108th Congress, an obstructionist minority blocked the Senate from giving its advice and consent a record 20 times. Twenty votes on judicial nominees were held, and 20 times a minority of Senators refused to let the Senate discharge its constitutional duty to render advice and consent. Twenty times, Mr. President, in the 108th Congress they stopped a judicial nominee who clearly had majority bipartisan support from receiving the courtesy of an up-or-down vote. They filibustered 10 different circuit court nominees within 16 months. This is completely without precedent, and it is also not fair. Any President's judicial nominees should receive careful consideration,

but after that debate, they deserve a simple up-or-down vote.

Despite the Democrats' power grab, we offered them several compromises that allowed for extended debate but still give nominees the courtesy of an up-or-down vote. They rejected every one. For instance, in May 2003, the majority leader, along with Senator Zell Miller of Georgia, a Democrat, proposed S. Res. 138, the Frist-Miller cloture reform proposal.

The Frist-Miller proposal was narrowly tailored after a much broader Democratic proposal from 10 years ago that would have completely eliminated the filibuster in its entirety. The Democratic proposal would have eliminated the filibuster from legislation, to which it has been historically confined, as well as for judicial nominations, where it had not been used until the last Congress.

Interestingly, all Republicans, every single one, voted against the Democratic proposal because it would have eliminated the legislative filibuster. In fact, it was the first vote that Majority Leader FRIST cast in the Senate. The only Senators who voted for that proposal were our friends on the other side of the aisle, nine of whom are still serving in this body today, singing a different tune, I might add.

I have heard several of my friends on the other side of the aisle warn ominously that if the Senate votes to reestablish the norms and traditions of this body with respect to judicial nominations, this could somehow lead to the infringement or even abolishment of a filibuster as applied to legislation. What nonsense. That will not happen because certainly nobody on this side is in favor of this, and I gather now nobody on the other side is in favor of it, even though nine of them were for it 10 years ago.

When the Democrats proposed to do away with the legislative filibuster 10 years ago, nobody on this side of the aisle supported it, and I am confident nobody on this side of the aisle would support it today. What is remarkable about that is back in 1995 when our friends on the other side were proposing eliminating the filibuster, it was right after our party came to the majority. We would have been a big winner of that had it passed, but yet not a single one of us voted for it. What did we do? We exercised restraint.

So back to the Frist-Miller proposal which, as I said, was a narrowly focused version of the Democratic—I stress ''Democratic''—bill to eliminate the filibuster altogether. The Frist-Miller proposal was much more moderate, much more measured. It would have applied only to nominations, not to legislation. It would have allowed Senators after 12 hours of debate to file successive cloture motions with declining requirements to achieve cloture. The final cloture threshold would be a majority of Senators present and voting.

The Frist-Miller proposal would have allowed the minority sufficient time for debate while reestablishing the Senate's 214-year history of allowing nominees with majority support to receive the courtesy of an up-or-down vote. It was a good proposal. Unfortunately, our Democratic colleagues rejected it.

In April 2004, a little over a year ago, the majority again reached out to our Democratic colleagues. We suggested another approach to break this impasse on judicial nominations. This time the chairman of the Judiciary Committee, Senator SPECTER, took the lead by offering S. Res. 327, the Specter protocol. Under the Specter protocol, judicial nominees would receive a committee hearing, a committee vote, and a floor vote within a reasonable amount of time regardless of which party controlled the Senate and the White House.

The chairman of the Judiciary Committee would agree to hold hearings for the nominees within 30 days of the submission of their names by the President. The chairman would set a date for the full committee to vote within 30 days of those hearings. And the majority leader would set an up-or-down vote on the Senate floor within 30 days after the nominee was reported out of committee. It was pretty simple.

As I indicated, these timetables would apply whether Democrats or Republicans were in charge of the Senate, whether the same party controlled the White House and the Senate, or whether the two parties split the control.

I bet to the vast majority of people listening, that sounds like an extremely fair, bipartisan solution. I agree with them. Again, unfortunately, our Democratic friends have not embraced it.

At this point, most people would throw up their hands and give up. We do not have the luxury of doing that, however, because the American people elected all of us to act on these issues that confront the country. Restoring Senate tradition and thereby restoring the proper balance of power between the executive and legislative branches is one of our responsibilities, and we need to do it.

We Republicans redoubled our efforts and patiently tried again. In the interim, though, we had an election. President Bush and several candidates for the Senate, many of whom serve here today, met thousands of mainstream ordinary Americans who were angry at the obstructive attempts to disfigure the filibuster. Thousands of Americans told President Bush and their Republican candidates for the Senate that they do not believe the President's nominees are out of the mainstream, and they do not like a minority of the Senate preventing the Senate from discharging its constitutional duty.

Millions of them turned out to reelect President Bush, giving him more votes than any Presidential candidate in American history. And millions voted to increase the majority's number in this body from 51 to 55.

Given those results, many of us had hoped that the politics of obstruction would have been dumped in the dustbin of history. Regretfully, that did not happen.

Recently, we Republicans tried again to reach an accommodation with our Democratic colleagues. Last month, the majority leader offered a comprehensive, thoughtful, and fair-minded solution. It is called the fairness rule. My Democratic colleagues had repeatedly complained that some of President Clinton's nominees were never reported out of the Judiciary Committee, and that is a valid point. They had a point. So to address the concern, the Frist fairness rule guarantees that every nominee would be reported out of Judiciary—presumably some of them maybe not with majority support—preventing any nominee from getting blocked in committee, which is the principal complaint the Democrats have about how they had been treated when our party controlled the Senate and their party the White House.

The Frist fairness rule guarantees every nominee would be reported out of Judiciary, preventing any nominee from getting blocked in committee. The principal complaint we have heard repeated so often out here is that the Republicans were simply doing in committee under Clinton what the Democrats are doing on the floor under Bush. We will deal with that.

In addition, my Democratic colleagues complain they need to have the right to debate judicial nominees protected.

This complaint is incongruous with Senator REID's comment that there was not enough debate time ''in the universe'' to allow a vote on Justice Priscilla Owen. It must not have been about time because he said there was not enough time in the universe.

Nevertheless, the Frist fairness rule guarantees up to 100 hours of debate on every nominee, allowing every member to have his or her say. This is more time than has been devoted to most Supreme Court nominees.

Finally, the Frist fairness rule guarantees up-or-down votes for every circuit court or Supreme Court nomination, regardless of which party controls the Senate or the White House. So the fairness rule could not have a more appropriate name. It guarantees a full and comprehensive debate. It guarantees every Senator a constitutional right to cast a fair up-or-down vote for every judicial nominee. It guarantees every President that their judicial nominees will get through committee and get a vote on the Senate floor and, of course, it would not apply to legislation at all.

Once again, our Democratic colleagues quickly rejected this proposal.

To recap, the majority in the Senate has had weeks of debate. We have tried multiple and generous time agreements. We have offered the Frist-Miller proposal. We have suggested the Specter protocols. We have offered the Frist

fairness rule. Unfortunately, our Democratic colleagues have rejected all of these efforts at accommodation.

We have reached the point in this debate where not a lot of new things are being said, but not everybody has yet said it. But I want to make a point that I believe has not been made by anyone today. For 70 percent of the 20th century, the same party controlled both the White House and the Senate. For 70 percent of the 20th century, the same people running the White House were running the Senate. Most of the time, the people in the minority in the Senate were people of my party. Yet Republicans did not filibuster, for example, the judicial nominees of Franklin Delano Roosevelt, even though he appointed eight Justices to the Supreme Court and elevated another to Chief Justice.

More recently, the Republican minority did not filibuster the judicial nominees of Presidents Carter and Clinton because we were in the minority for 2 years under President Clinton and all 4 years under President Carter, even though several of these nominees were extremely controversial and did not enjoy supermajority support.

To be fair, when Senator BYRD was the minority leader, he did not lead his Democratic caucus in the Senate to filibuster President Reagan's judicial nominees either, and Senator BYRD should be commended for that. That was an extraordinary act of statesmanship. He could have done at the time he was in the minority when President Reagan was in the White House what has been done in the previous Congress.

When Senator BYRD was minority leader, he did not lead his Democratic Caucus in the Senate to filibuster President Reagan's judicial nominees. Not until 2 years ago has a Senate minority ever decided to filibuster a President's judicial nominations on a repeated partisan and systematic basis when they clearly enjoyed majority support.

To correct this abuse, the majority in the Senate is prepared to restore the Senate's traditions and precedents to ensure that regardless of party, any President's judicial nominees, after full and fair debate, receive a simple up-or-down vote on the Senate floor. It is time to move away from advise and obstruct and get back to advise and consent.

The stakes are high. The Constitution of the United States is at stake. Article 2, section 2 clearly provides the President and the President alone nominates judges.

The Senate is merely empowered to give advice and consent, but our Democratic colleagues want to change the rules. They want to reinterpret the Constitution to require a supermajority for confirmation.

In effect, they would take away the power to nominate from the President and grant it to 41 Members of the Senate. In other words, there would be the distinct possibility and in fact great likelihood, if this continues, that 41 Members of the Senate will dictate to the President of the United States who may be a member of the Supreme Court and other courts.

We have made every effort to reach out and compromise, but our colleagues at least so far have refused. The only choice that remains is to hold a vote to reaffirm the traditions and precedents that have served this body so well for the last 214 years. Let us vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I thank Senator MCCONNELL for his comments and for his leadership in this area. In many respects, I would like to pick up where he left off in the discussion of how did we reach this point. How did the Senate come to where we are going to have to have hours, days, weeks of debate on highly qualified men, women, and minorities for the Federal judiciary?

Most of my colleagues in the Senate know over the years I have been a believer that we should get things done for the American people; that we should have cooperation; that we should vote on these judges up or down and move on; that we need to be working as we did earlier this week to report a highway bill, to get energy legislation, to deal with the very critical and difficult issue of immigration reform, pass appropriations bills, take up other critical issues for the future in our country, the creation of jobs, to promote the continued development in critical high-tech areas such as telecommunications. We have a lot of work to do and yet here we are, stalled out, in my opinion, unnecessarily.

I believe we should reach across the aisle and try to find accommodation. Whether one likes it, that is how the Senate was set up, that is how we work, quite often by consensus. Over the years, when I served in leadership positions, I was quite often criticized by my own colleagues of being too willing to work with the other side to try to find a way to get a result. Then Senator and Minority Leader Tom Daschle and I worked together a lot. At the same time I was being criticized by some of my colleagues, he was being criticized by his colleagues. It is called leadership. It is called dealing with the rules one has and finding a way to work together and move forward.

I have been working for 4 years to figure out what is going on and find a solution that is acceptable to both sides of the aisle.

I worked with Senator FRIST and Senator Zell Miller to get a bill out of the Rules Committee some 2 years ago that would set up a process that would get us to a final vote on these nominees. The first vote would be the required 60 and then the second vote 57 and so on down until eventually after about a month we would get a direct vote that I think would have been fair. But, no, the Democrats would not accept that.

So then this year I came back and I started to see if maybe I could work across the aisle with Senators such as Senator NELSON, Senator PRYOR, and others to see if we could address some of the legitimate concerns.

This problem did not start 2 years ago or 4 years ago. This has been coming for a long time. I think it began with the nomination of Judge Bork. I think Republicans have retaliated for what they felt was a wrong and then the Democrats retaliated, but always slipping further down this slope of unfairness to these good men and women.

So Senator NELSON and I worked together, and we did come up with a proposal that would guarantee all nominees now and in the future would get reported out of the Judiciary Committee after a specified period of time. In other words, stop the practice, if in fact there was one during the Clinton years, of killing nominations in the Judiciary Committee unless there is clearly justification for it, objection from the in-State Senators, or other reasons, but do not get into the technicalities. Just say we were going to guarantee they would get out of committee, there would be time for full debate up to a week before we could get an up-or-down vote.

Senator FRIST actually expanded that and said how about a full 100 hours of debate; every Senator would have an opportunity to talk an hour about any nominee. By the way, I can tell my colleagues, for the majority leader to make a sacrifice of 100 hours of this body's time is a huge sacrifice. It could not be done very much, maybe two or three times a year at the most. So the seven nominees now being held hostage whom we are going to talk about in the next few days, some of them clearly would not make it under that procedure, but it would have gotten to a final vote.

Again, that was rejected by the Democrats because they said, oh, no, we cannot agree to anything that would appear to or in fact give up our right to filibuster these judges. That did not work.

Then, of course, there was the last effort, one that is now still underway, one I am not involved in any longer because I kept feeling we were not going to get an agreement that did not force us to throw over and not even vote or agree to vote down one of these two women, outstanding nominees, for the Federal appellate courts. I will talk more about them individually in a moment.

So again back to the question of how we got here, the debate we find ourselves currently engaged in is a culmination of 4 years of obstructionism by a minority of Senators who refuse to allow the majority of the Senate to fulfill their constitutional responsibilities.

I know we have a lot of people who come to the Senate floor and talk

about the Constitution, pontificate about the forefathers, and that the language is this. I have read the Constitution, I have read the Federalist Papers, I have looked at the history, and clearly these judges should be getting an up-or-down vote.

The Constitution clearly says when they expect a supermajority, and if they do not, then the presumption is a majority would win.

I believe in protecting minority rights. I have been in the minority more in my legislative career of 33 years than I have been in the majority. But there is another little thing: It is called elections and a majority. At some point, we quit talking and we give these people a fair up-or-down vote.

Some people will come to the floor and say, this is the tradition, we must not mess with it; this is something that has been in existence from the very beginning of the history of our country. That is not so. As a matter of fact, filibusters did not get started until World War I.

Oh, people will be surprised at that. You mean we have not had it since the great days of Clay, Webster, and Calhoun? No. As a matter of fact, after a minority of Senators blocked efforts to have an up-or-down vote on a proposal to arm merchant ships during World War I, the Senate adopted its first cloture rule. The cloture rule was later changed on five separate occasions, most recently in 1986.

So these great and hallowed traditions in this institution, if one checks back on them, do not go back very far. This is a living body. Like the Constitution, it is a living, breathing body. It changes. It evolves. We make changes in the rules. That is why when people say, woe is me, doom and gloom, the Senate cannot get through this, whatever we do, it will be cataclysmic—forget it. We have a job to do here. Let us face it like men and women and let us deal with the issue. Let us move on. Let us deal with the substance. Let us deal with the things that matter to people, such as the price of gasoline and the immigration problem, and handle it in a fair way. But this is not something that has been written into the Constitution. No, it is new.

It began, I am sorry to say, with a personal friend of mine, a great man, a great judge named Charles Pickering who had been approved unanimously by the Senate in the past to be a Federal district judge, but when he was nominated for the Fifth Circuit Court of Appeals, we could not get it out of the committee. At that time, the majority, the Democrats, killed his nomination in committee. I was floored. I could not believe it; one of the finest men, one of the finest Christians, one of the finest judges, one of the best unifiers we have ever had in the history of our country probably since LQC Lamar in the 1880s.

He got defeated in committee. I thought at the time it was a shot at me, part of the politics we get around here, and that it would change with time; it was just a gratuitous backhand at me. I can say for sure Senator Daschle, my friend, was not comfortable with what happened there. The majority came back to the Republican side and Judge Pickering came to the floor and he was filibustered. Then it was Miguel Estrada. Then it was Priscilla Owen. Then a pattern developed. That is one reason some people say, look, if there is this option that it only takes 51 votes, why was it not done last year or 2 years ago or 4 years ago? Frankly, because I thought it was an aberration. I thought it was temporary.

I could not believe this institution would besmirch, denigrate, and harass these nominees, turning the Senate not into an august, hallowed body of great deliberation but into a torture chamber, and yet here we are. I have tried to find a way to get out of this. I have tried to accept some of the blame I deserve, but that has already been done.

We have to find a solution now and we have to do it soon. Can a compromise be worked out? Why, of course. They always can, by sundown. That would probably satisfy nobody totally, but everybody a little bit. If it does not happen, we have to get this over with. We have to vote.

So what I thought was going to be an isolated incident now has become extreme. It has become systematic. It has become highly partisan. We have to deal with it. We probably should have already dealt with it.

As majority leader, I worked closely with Senator Daschle to ensure each nominee who reached the Senate floor received an up-or-down vote. Some people said, all the judges did not get out of committee. The leaders do not dictate to the committees. We do not dictate to one Senator, let alone a committee of Senators. But when it came to the floor, through thick or thin and however difficult it was, we got it done, we got them confirmed.

I will give an example. I filed cloture personally on President Clinton's nominee to the Federal district court in Utah, Brian Theodore Stewart. A cloture vote was in fact held to cut off an unnecessary and unfair filibuster on September 21, 1999. I voted for cloture to cut off the filibuster for this nominee because I believed, as I believe now, that it was important to hold an up-or-down vote on a nomination after it reached the Senate floor.

Additionally, I would like to mention two other controversial nominees to the Ninth Circuit Court of Appeals nominated by President Clinton. Marsha Berzon and Richard Paez both had very serious problems that were raised during their nominations and that concerned Senators. Their nominations were certainly highly contentious, and the process was very slow. However, they did eventually come out of the Judiciary Committee and at the appropriate time I rose to file for cloture on both of these nominees in an effort to move the process forward toward a vote, against the wishes of a number of Members of my own caucus. I stood right there and said we are not going to filibuster Federal judicial nominees; we are not going to do it. If they come out of the committee, they are going to get an up-or-down vote. Now, I may vote against them but not on my watch are Republicans going to filibuster these nominees.

On March 8, 2000, the Senate voted 86 to 13 to 1 to invoke cloture to cut off the filibuster on the nomination of Judge Berzon. Her nomination was confirmed the following day by a vote of 64 to 34 to 2.

Also on March 8, 2000, the Senate voted 85 to 14 to 1 to invoke cloture on the nomination of Richard Paez. The next day, March 9, 2000, a motion to postpone indefinitely a vote on Paez was defeated 67 to 31 to 2. By the way, in the interest of full disclosure, I voted to delay it. I do not remember why, and I am embarrassed. I should not have. An indefinite postponement is the same as a filibuster. That was wrong. We should not have done it. He was later approved that very day 59 to 39 to 2.

These two now serve in the Federal judiciary. They had lots of problems, in my mind, which I will not enumerate. There is no use rehashing that. But this is proof of the evidence when Republicans say we did not do it when we could have during the Clinton years, we did not allow filibusters. The number of President Clinton's judges who were blocked by filibusters, zero. Not under my watch or others'.

I think it is time we bring this to conclusion. I think if we could ever get a time out, if we could ever find a way to stop the filibusters, deal with the magnificent seven that are still pending, this would fade away. That is the way it happens in the Senate.

Oh, the clash is mighty and the roar is deafening. ''There is no way out of this valley of death.'' That is when it always seems to happen, that we find a way to stop the craziness and move forward in a responsible way.

I have to talk a little bit about the nominees. I have met with some of them. I direct your attention to this picture. Why does he have a picture? I want to make a point. These are not numbers. These are not seven things. These seven nominees who have been renominated by the President are men and women and minorities who have had their reputations and their lives dragged through the mud—this one, Priscilla Owen, for up to 4 years.

Maybe you could analyze the seven and say, that one has a little problem or that one has a little problem. I don't say they are perfect. None of us are. But I am telling you, you can't get much closer to perfect than this nominee, Priscilla Owen. That is why I could never agree to any deal that did anything but allow this lady to have an up-or-down vote on her nomination.

She is from Texas. Maybe that is part of the problem, I don't know. She serves on the Texas Supreme Court. It seems like a good training ground before you move to the Federal judiciary. She graduated cum laude from Baylor University and cum laude from Baylor University Law School. She was a member of the Baylor Law Review. She was honored as the Baylor Young Lawyer of the Year, Baylor University Outstanding Young Alumna. After graduating from law school, she scored the highest score in the State when she took the Texas bar exam in 1977.

She practiced law with one of the most prestigious law firms in the State of Texas, mostly commercial litigation, for 17 years. She has been on the Supreme Court of Texas for 10½ years, and the last time she ran she was endorsed by every major newspaper in the State and she received 84 percent of the vote.

She has ruled hundreds of times, not always on the business side, sometimes on the consumer side. She has had to interpret law that has been difficult, but she has done it. She has done it fairly. She has done it most often with the majority of the court.

By the way, even that hallowed American Bar Association—that I used to be a member of, but I dropped my membership for a number of reasons—gave her its highest rating.

When you look at this lady's record, her brilliance, her family—every way she has conducted herself, there is no justification for her not being confirmed or at least getting a vote.

I am not going to go through the charges that are levied against her, partially because some of them are so bizarre and so ridiculous, but also because I have seen around here that if you repeat a misstatement often enough, it becomes fact. Here is an example. Justice Owen has been accused by some of the people here because of the fact that Justice Alberto Gonzales—now the Attorney General, then a supreme court justice in Texas—accused her of being engaged in an ''unconscionable act of judicial activism'' in one particular parental notice case where abortion was involved and she was interpreting a State law. That happened even though Justice Gonzales said that was not the case, that his words were twisted and misconstrued. When he said that, for him, in his concurring opinion, it would be an ''unconscionable act of judicial activism'' for any judge to bend the statute to advance his or her own personal views, even though ''the ramifications of such law and the results of the court's decision may be personally troubling,'' he was talking about himself.

This is not a gratuitous shot at his colleague sitting on the bench, and he has tried to clarify it. It makes no difference. It continues to be repeated as fact among those who oppose this nomination.

Look at this face. This lady has been through 4 years of hell. Why? I just don't get it.

Somebody said she has a pro-business voting record. Is that something sinister? She has ruled, for instance, that patients who are injured should be able to pursue doctors. She has ruled on occasion for consumers. But, my goodness, is it an indictment if you are pro-business? I am the son of a shipyard pipefitter, union member, but I am pro-business because I figured out, like my daddy knew, if business didn't make a profit, if they went out of business, he was out of a job.

So, there, she deserves a vote up or down. She will make a great Federal judge.

This one is even more hard to explain to me. Janice Rogers Brown. I am not going to give her American dream story, but she has lived it: Born in Alabama, family moved to Sacramento when she was still in elementary school. She grew up in California, got an education, and worked hard. She graduated from California State University at Sacramento, with a bachelor in economics and received a law degree from UCLA Law School. She has served as Legal Affairs Secretary to Pete Wilson, the Governor of the State of California, Deputy Attorney General in the office of the California Attorney General, and she served on an intermediate California appellate court. She has been on the bench long enough where she has been appointed and sought reelection and she got 76 percent of the vote in California on reelection.

That is not exactly a center or a center right constituency. They must have thought she was doing a good job; the first African-American woman in history on the Supreme Court of California. A great record.

The American dream has been lived for this lady. Two days ago, when she came by my office, I apologized to her on behalf of the American people for the way the Senate has treated her. I am ashamed of what we did. What is the criticism?

One of them, she is harsh on criminal defendants. Excuse me? The truth is, she is a conservative African-American woman. This is bad. ''How can we allow that to happen? That can't be.'' She has had some things to say in her remarks off the bench, that some of the Federal programs have had a counter-effect, not a positive effect. But she has been described by others as being brilliant and fair. Even a columnist who was being critical of her recently admitted that her opinions are consistently the most concise, engaging, well organized, and well reasoned.

She wrote the majority of the decisions in 2002 for the California Supreme Court. She is writing with the majority. Again, this face is a human being. This is not a number. This lady has been tangled up in partisan politics for 2 years. This is wrong.

That is why when people say to me, Oh, the institution will be damaged, my colleagues, I think we maybe protest too much, and we puff ourselves up a little bit too much. By the way, there are some things more important than the rules of an institution. I still think right and wrong should apply, just as it should in every other phase of our lives.

What has happened to this lady, and this one, is wrong. I cannot be a part of a process that doesn't give them the vote that they deserve, up or down—now. If they are not confirmed, so be it. I have voted on the winning side and on the losing side. I have voted for judges and against judges. Most often they have been confirmed; occasionally not, and I have been berated by Democrats sometimes when I voted against some of the nominees. But the process used to work. It is broken now. Let's fix it. Let's fix it now. Let's do our job. Let's vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Missouri.

Mr. BOND. Mr. President, I think the facts are clear. You have heard this many times. Almost everything has been said, but not everybody has said it. I want to go over some of the facts I think are very important.

For 214 years judicial nominations have come to the Senate floor and have been considered without filibuster. It is a courtesy extended by my fellow Senators to the President. By resorting to filibustering judicial nominees who have the support of a majority of Senators, which began in 2003 by colleagues on the other side of the aisle, they are throwing overboard 214 years of Senate courtesy and tradition.

The Constitution of the United States does not contain a word about filibusters. The Federalist Papers do not contain the word ''filibuster.'' Rather, the Constitution lays out the standards for confirming judges. It does not require a 60-vote majority for confirmation. It requires a majority vote to confirm members of the Federal judiciary.

The Democrats in this Chamber have taken it upon themselves to rewrite the rules for confirming justices. They now demand 60 votes for confirmation to a circuit court or potentially a Supreme Court position.

For the first time, judicial nominations with clear majority support are denied an up-or-down 51-vote, Senate majority vote on the Senate floor through the unprecedented use of the filibuster.

There is no constitutional authority for their demands, and it is an abandonment of the tradition of this Chamber. We are perfectly within our rights and history is on our side as we prepare to take steps to ensure the confirmation of judges with majority support.

In an attempt to cloud these rather clear facts, the Democrats have put forward a parade of dubious arguments to support their filibusters, obfuscation to justify political obstructionism.

One of the facts they overlook is their obligation to check the President—and our very system of checks and balances gives them authority and

demands action. But the Senate has the ability to check the President, not a minority of the Senate willing to pervert the rules of this body. The majority, therefore the Senate as a body, and representing a separate branch of Government, has spoken on these nominations. These nominees enjoy the support of the majority body's Members. The President has made his nominations and made his case for the nominations. Supporters and opponents of the nominees have made their case before the Senate on these nominations. From the votes we have taken we have seen that a majority of the Senate agrees with the President and supports his nominations. Under the system to check the President, as laid out clearly in the Constitution, the President has carried the issue and won the support of the body that has the authority to register its disapproval.

It has not disapproved. The Constitution says nothing on the subject of a filibuster, and it says nothing of the power of a minority to defeat the President's judicial nominations. It is the product of a rule of the Senate passed many years after the ratification of the Constitution. This rule does not derive from the authority of the Constitution. Furthermore, the rule is being used in a manner never used before. It is a perversion of the intent of the Constitution and, if its use in this manner is not abandoned, then we must take steps to wipe it from the books.

Let me go back to statements made about this process. Democrats are trying to change the constitutional standard for confirmation from a simple majority to a 60-vote standard. That is why we see the claim of the distinguished senior Senator from West Virginia that the nominations were rejected because they did not get 60 votes for cloture in the 108th Congress. Senators from Nevada, New York, Wisconsin, and Massachusetts have said they were rejected. A 60-vote standard is contrary to the Constitution. The Constitution spells out clearly where a supermajority is required: For veto overrides, constitutional amendments, treaty ratification, expelling a Member, convictions for impeachment. Judicial confirmation is not one of them.

It is also a double standard based on past treatment of a Democratic President's nominees. For example, Clinton nominees Richard Paez and Susan Molloway and William Fletcher were all confirmed with fewer than 60 votes, as were Carter nominees Abner Mikva and L.T. Senter.

It is said that justice delayed is justice denied. These filibusters of judicial nominations have slowed the consideration of cases in the Federal appeals court, especially in the Sixth Circuit, where Democrats have blocked four qualified nominees. As my colleague from Mississippi has pointed out, these good people who have devoted their life to law and the judiciary have been subject to interminable delays, personal vilification, without giving them the right to an up-or-down vote which this body has already demonstrated they would give them.

Look at what they have said. Back in 1975 in the CONGRESSIONAL RECORD of February 20:

The filibuster has been the shame of the Senate and the last resort of special interest groups. Too often, it has enabled a small minority of the Senate to prevent a strong majority from working its will and serving the public interest.

So spoke the senior Senator from Massachusetts.

Then, in 1998, June 18, a statement from the CONGRESSIONAL RECORD:

I have stated over and over again on this floor that I would . . . object and fight against any filibuster on a judge, whether it is somebody I opposed or supported.

That was the senior Senator from Vermont.

He also said:

I do not want to get [to] having to invoke cloture on judicial nominations. I think it is a bad precedent.

CONGRESSIONAL RECORD, September 16, 1999.

Another quote:

If we want to vote against somebody, vote against them. I respect that. State your reasons. I respect that. But don't hold up a qualified judicial nominee . . . I have stated over and over again on this floor that I would . . . object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty.''

Same Senator from Vermont, June 18, 1998.

Here is another one from the CONGRESSIONAL RECORD March 19, 1997:

But I also respectfully suggest that everyone who is nominated ought to have a shot, to have a hearing and have a shot to be heard on the floor and have a vote on the floor . . . It is totally appropriate for Republicans to reject every single nominee if they want to. That is within their right. But it is not, I will respectfully request, Madam President, appropriate not to have hearings on them, not to bring them to the floor and not to allow a vote . . .

That was the distinguished senior Senator from Delaware, March 19, 1997.

Here is another good quote:

The Chief Justice of the United States Supreme Court said: ''The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down.'' Which is exactly what I would like.

The distinguished senior Senator from Massachusetts, CONGRESSIONAL RECORD, March 7, 2000.

Mr. President, the minority had the opportunity to win their argument long before it reached the Senate. They had a chance to win at the ballot box. They argued that the American people could send Members of the Senate who agreed with their legislative agenda and their view of the role of the judiciary. The American people did not agree with the minority and sent an increased majority of Members to the Senate who agree with the President on the role of the judiciary, the type of individuals who should occupy these positions, and the need to give them an up-or-down vote.

On two occasions, my colleagues on the other side of the aisle had the chance to win the argument on judicial nominations and had a chance to win this argument at the ballot box. They did not. They had a chance to convince a majority of the Members of the Senate that the nominees are unsuitable to sit on the Federal bench. They were unable to do so. So they have resorted to turning a Senate rule on its head and insisting on an application never used before to win a debate they could not win by a simple 51-vote majority.

Now our Democratic colleagues come to the floor and say the view of the majority of the Senate and the view of a President, who won the most votes ever by any President, is out of the mainstream. A minority is now demanding their view—which is the minority opinion in this body, and apparently from the opinion polls and our contacts, the minority opinion in the country—should carry the day as to what is and what is not in the mainstream. Once again, this line of thought would seem to turn logic on its head.

To cloud further the unprecedented nature of their attack on the President's nominations, my Democratic colleagues are blowing their own horn about confirming 208 of the President's nominees versus only defeating 10; a stellar record of cooperation they claim, evidenced by confirming 95 percent of the President's nominees. By confirming the President's district court nominees they are attempting to hide a blatant attack on the President's nominees for higher court, appellate courts, courts of appeal.

The circuit courts of appeals are the second most important courts in the land behind only the Supreme Court of the United States. When it comes to confirmation of the President's nominees, their record is not one of cooperation but one of unprecedented assault. Nearly one in three of President Bush's nominees for the Federal court of appeals has been targeted for defeat. This is not by accident. We know two days after the Senator from Vermont switched parties and changed the balance of the Senate in June of 2001, a number of extreme left-leaning groups met to plot the defeat of circuit court nominees. Their analysis showed a Republican President would surely nominate judges with a philosophy consistent with the President, strict construction of the Constitution, rather than the extreme leftwing judicial legislation views of their own. The left-leaning groups saw their balance on the court decreasing, and their plan was to defeat circuit court nominees. Their plan was not to argue for judges in the mainstream or to defeat district court nominees. Their objective was to defeat, by any means, circuit court nominees of President Bush.

Yesterday we saw this outline in the Washington Times. These groups, in

turn, met with Senate Democrats to target certain nominees. Surprisingly, the nominees the groups decided to target seemed to be neatly in line with those ultimately targeted by Senate Democrats. So, actually, the minority has been outsourcing their decision as to who is and who is not in the mainstream to outside liberal groups such as People for the American Way, which a glance at any of their material reveals they are not exactly in the mainstream.

Here are a couple of excerpts from the Washington Times article yesterday:

In a November 7, 2001, internal memo to Sen. Richard J. Durbin, who is now the minority whip, an aide described a meeting that the Illinois Democrats had missed between groups opposed to Mr. Bush's nominations and Sen. Edward M. Kennedy, Massachusetts Democrat and member of the Judiciary Committee.

The memo goes on to State:

Based on input from these groups, I would place the appellate nominees in the categories below . . . listing 19 nominees as ''good,'' ''bad'' or ''ugly.''

Four of the 10 nominees who Democrats have since filibustered were deemed either ''bad'' or ''ugly.'' None of those deemed ''good'' by the outside groups was filibustered.

Among those listed as ''ugly,'' was Texas Supreme Court Justice Priscilla Owen, whose nomination will be brought to the floor today by Majority Leader Bill Frist, Tennessee Republican.

In a June 4, 2002, memo to Mr. Kennedy, staffers advised him that Justice Owen would be ''our next big fight.''

''We agree that she is the right choice—she has had a bad record on labor, personal injury and choice issues, and a broad range of national and local Texas groups are ready to oppose her,'' the aides wrote.

I ask unanimous consent this be printed in the RECORD after my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

Mr. BOND. As I believe has been stated many times before, Justice Owen has won overwhelming support, more than three-quarters support of the majority of Texas and the endorsement of major leading newspapers, the Bar Association, but the left-leaning groups did not like her.

Our colleagues in the minority want congratulations for the fact that nearly all of the President's trial court judges have been confirmed. I respect greatly the men and women on the Federal district court. In the eyes of the Senate Democrats, however, clearly, all judgeships are not created equal.

We see the contrast between the way the Democrats are conducting business and the way business has been conducted by tradition. Nearly one of three of the President's nominees to the appellate court, the circuit court are being filibustered. Prior to the Democrats embarking on this path, 2,372 nominees were confirmed without a filibuster; 377 of President Clinton's nominees were confirmed without a filibuster. Judges were confirmed for 214 years without there being a filibuster. So the minority has turned over the determination as to who is and who is out of the mainstream to a number of out-of-the-mainstream groups, and they let these groups lead us down the path of destroying Senate tradition of 200 years. Not a record, in my view, that warrants a hardy pat on the back.

In a thoughtful opinion piece in today's Washington Times, majority leader Bob Dole recalls there were a few nominations made by President Clinton that were clearly objectionable to most Republicans. He said:

I recall two judicial nominations of President Clinton's particularly troubling to me and my fellow Republicans members when I was the Republican Leader in the Senate. Despite our objections, both received an up-or-down vote on the Senate floor. In fact, I voted to end debate on one of these nominees while voting against his confirmation. Republicans chose not to filibuster because it was considered inappropriate for nominations to the federal bench.

Senator Dole goes on to say:

By creating a new 60-vote threshold for confirming judicial nominees, today's Senate Democrats have abandoned more than 200 years of Senate tradition.

For the first time, judicial nominees with clear majority support are denied an up-or-down vote on the Senate floor through an unprecedented use of the filibuster. This is not a misrepresentation of history; it's a fact.

I ask unanimous consent that be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2)

Mr. BOND. We have heard a lot of statements and posturing from the other side about the President trying to pack the courts and how this is a nuclear option.

Let me tell you what the nuclear option is. The Democrats say if we go back to the tradition of confirming judges by a 51-vote up-or-down majority in the Senate, they are going to blow up the Senate. They are going to bring everything to a halt. They are going to destroy this body because we insist on what Democrats, prior to 2001, agreed with us; that is, judicial nominations brought to the floor deserve to be confirmed by a 51-vote up-or-down majority.

Already, we have seen the Democrats' stall tactics. ''Stall ball'' is being played. For people not in this body, you may not know that any Senator has a right to object to committee hearings being conducted 2 hours after the Senate goes in session. Even though this is regular order, this is standard procedure, we have had the Democratic side object to holding hearings.

Yesterday, we were scheduled to have a very important meeting in our Intelligence Committee to go over current threats, the intelligence of the dangers that our troops in the field face and the dangers we in the homeland face. That meeting was canceled because the Democrats objected.

The Energy Committee is trying to write a very important bill dealing with energy. We have not had an energy policy in a decade and a half. Gas prices have gone through the roof. We are seeing shortages. We are paying at the pump. We are paying in our home heating bills, paying with jobs going overseas because of the unnatural, artificial restrictions on the development of sources of energy in the United States—natural gas, oil, and even renewable fuel—while demand artificially is being increased for natural gas by the requirement that rules require it be used in electric utilities. And yet by objecting to committee hearings, the Democrats are limiting the Energy Committee to 2 hours a day and a markup.

It is not the President who is distorting rules to forward his nominations. It is not the President who has abandoned tradition and courtesy in forwarding his nomination. It is not the President who is attempting to rewrite the Constitutional standard for confirming judges. The other side of the aisle thinks if they can muster 41 votes, they ought to stop anybody that their leftwing, liberal interest groups target for blocking from confirmation. The President is exercising his constitutional role to appoint members of the Federal judiciary, and he is doing so following his decisive victory last fall after winning more votes than any other president in history, promising to appoint good, well-qualified, highly qualified, highly respected judges and attorneys to the courts of appeal. Who is and who is not in the mainstream of American thought?

I believe it is clear that the President and the majority in the Senate have a right to give these well-qualified nominees an up-or-down 51-vote majority vote on the floor of the Senate.

Mr. President, I thank the Chair and yield the floor.

EXHIBIT 1

[From the Washington Times, May 19, 2005]

MEMOS REVEAL STRATEGY BEHIND JUDGE FILIBUSTERS

(By Charles Hurt)

The ''nuclear'' showdown that is expected to begin unfolding in the Senate today has its origins in closed-door discussions more than three years ago between key Senate Democrats and outside interest groups as they huddled to plot strategies for blocking President Bush's judicial nominees.

In a Nov. 7, 2001, internal memo to Sen. Richard J. Durbin, who is now the minority whip, an aide described a meeting that the Illinois Democrat had missed between groups opposed to Mr. Bush's nominees and Sen. Edward M. Kennedy, Massachusetts Democrat and member of the Judiciary Committee.

''Based on input from the groups, I would place the appellate nominees in the categories below,'' the staffer wrote, listing 19 nominees as ''good,'' ''bad'' or ''ugly.''

Four of the 10 nominees who Democrats have since filibustered were deemed either ''bad'' or ''ugly.'' None of those deemed ''good'' by the outside groups was filibustered.

Among those listed as ''ugly'' was Texas Supreme Court Justice Priscilla Owen, whose nomination will be brought to the floor today by Majority Leader Bill Frist, Tennessee Republican.

The internal Democratic memos, downloaded from Democratic computer servers in the Judiciary Committee by Republican staffers, offer a unique look into the early stages of the filibuster campaign, when Democrats were clearly doubtful that they could succeed in blocking any of the nominees.

In the 14 memos obtained in November 2003 by the Wall Street Journal and The Washington Times, Democratic staffers outlined the concerns held by outside groups about Justice Owen's ''hostile'' position toward abortion and her ''pro-business'' attitude.

In a June 4, 2002, memo to Mr. Kennedy, staffers advised him that Justice Owen would be ''our next big fight.''

''We agree that she is the right choice—she has a bad record on labor, personal injury and choice issues, and a broad range of national and local Texas groups are ready to oppose her,'' the aides wrote.

Another nominee discussed often in the memos is Miguel Estrada, a Washington lawyer who became the first filibustered nominee and who withdrew his nomination to the U.S. Court of Appeals for the D.C. Circuit after waiting two years for a final vote.

In the 2001 memo to Mr. Durbin, the staffer explained the concerns that the outside groups had about Mr. Estrada.

''They also identified Miguel Estrada (D.C. Circuit) as especially dangerous because he had a minimal paper trail, he is Latino, and the White House seems to be grooming him for a Supreme Court appointment,'' the aide wrote.

The memos also reveal the close relationship between Democrats and the outside groups.

In a June 21, 2002, memo to Democrats Mr. Kennedy, Mr. Durbin, Sen. Charles E. Schumer of New York and Sen. Maria Cantwell of Washington, a staffer urged delaying a hearing for Mr. Estrada to ''give the groups time to complete their research and the committee time to collect additional information.''

One nominee who wasn't filibustered was Judge Timothy Tymkovich, who now sits on the U.S. Court of Appeals for the 10th Circuit. But Democrats opposed moving him until all the groups had given their approval.

''[I]t appears that the groups are willing to let Tymkovich go through (the core of the coalition made that decision last night, but they are checking with the gay rights groups),'' staffers wrote Mr. Kennedy in a June 12, 2002, memo.

But even as late as early 2003, Democrats appeared concerned that they would not succeed in mounting a full-scale filibuster against their first target.

In a January 2003 meeting between Democrats on the Judiciary Committee and Democratic leaders in the Senate, Democrats agreed to attempt a filibuster against Mr. Estrada.

''All in attendance agreed to attempt to filibuster the nomination of Miguel Estrada, if they have the votes to defeat cloture,'' the judiciary aides wrote. ''They also agreed that, if they do not have the votes to defeat cloture, a contested loss would be worse than no contest.''

EXHIBIT 2

A UNIQUE CASE OF OBSTRUCTION

In the current debate over judicial nominations, some commentators claim Republicans such as myself are misrepresenting history by suggesting the current filibuster tactics of the Democrats are unprecedented.

These commentators cite the 1968 nomination of Abe Fortas to be chief justice of the United States as an example of how Republicans once attempted to block a judicial nomination on the Senate floor. I welcome the opportunity to respond to this claim, because the more Americans learn about the history of judicial nominations, the more they will realize how terribly off-track our confirmation process has become.

In 1968, President Lyndon Johnson sought to elevate his longtime personal lawyer, then-Associate Supreme Court Justice Abe Fortas, to be chief justice. I would not be elected a senator for a few more months, but followed the news surrounding this nomination closely.

There were problems with the Fortas nomination from the beginning. Not only did he represent the most aggressive judicial activism of the Warren court, but it soon became apparent Justice Fortas had demonstrated lax ethical standards while serving as an associate justice.

For example, it emerged Fortas had taken more than $15,000 in outside income from sources with interests before the federal courts. This was more than 40 percent of his salary at the time, or about $80,000 in today's dollars.

More fundamentally, Fortas never took off his political hat when he became a judge. While serving as a Supreme Court justice, Fortas continued serving as an informal political adviser to the president and even involved himself in Vietnam War policy. It later emerged Fortas had discussed pending cases with the president, an obvious violation of professional ethics.

In fact, less than a year after his nomination as chief justice was withdrawn by President Johnson, Justice Fortas was forced to resign from the Supreme Court due to ethical breaches.

The claim Fortas was not confirmed due to a ''filibuster'' is off-base. A filibuster, commonly understood, occurs when a minority of senators prevents a majority from voting up-or-down on a matter by use or threat of permanent debate.

That simply did not happen with Fortas, where the Senate debated the nomination's merits quite vigorously. Senators exposed the ethical issues involved and the widespread belief the vacancy had been manufactured for political purposes. They sought to use debate to persuade other senators the nomination should be defeated.

After less than a week, the Senate leadership tried to shut down debate. At that time, two-thirds of the senators voting were needed to do so, yet only 45 senators supported the motion. Of the 43 senators who still wished to debate the nomination, 23 were Republicans and 19 were Democrats.

President Johnson saw the writing on the wall—that Fortas did not have 51 senators in support of his nomination—so he withdrew the nomination before debate could be completed.

The events of 37 years ago contrast markedly with those the Senate Faces today:

(1) Fortas lacked majority support when President Johnson withdrew his nomination. Today, Senate Democrats block up-or-down votes on judicial nominees who are supported by a majority of senators.

(2) Justice Fortas was politically associated with President Johnson and eventually resigned from the Supreme Court under an ethical cloud. No such charges have been made against President Bush's nominees.

(3) The Senate debated the Fortas nomination only for several days before Johnson withdrew the nomination, versus the four years some of President Bush's nominees have been pending. It's clear the Democrats today have no desire to persuade, and have even complained further debate is a ''waste of time.''

(4) Fortas' support and opposition were bipartisan, with Republicans and Democrats on both sides of the question. Today, the controversy is purely partisan—with only Democratic senators, led by their leader HARRY REID, opposing an up-or-down vote.

I recall two judicial nominations of President Clinton's particularly troubling to me and my fellow Republican members when I was the Republican Leader in the Senate. Despite our objections, both received an up-or-down vote on the Senate floor. In fact, I voted to end debate on one of these nominees while voting against his confirmation. Republicans chose not to filibuster because it was considered inappropriate for nominations to the federal bench.

By creating a new 60-vote threshold for confirming judicial nominees, today's Senate Democrats have abandoned more than 200 years of Senate tradition.

For the first time, judicial nominees with clear majority support are denied an up-or-down vote on the Senate floor through an unprecedented use of the filibuster. This is not a misrepresentation of history; it's a fact.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, will the Senator yield for a question?

He quoted that wonderful and very important editorial by former majority leader, Bob Dole, saying without any doubt this is an unprecedented act to filibuster. I notice that Senator HATCH, one of our most distinguished Members, the former chairman of the Judiciary Committee, has just joined us on the floor.

I will ask the Senator from Missouri if he remembers, several years ago, after Senator Dole had left the Senate, that a discussion was had in the Republican Conference about the possibility of filibustering judges, and that Chairman HATCH explained to us that it was totally against the traditions of the Senate, and we did not maintain a filibuster against Clinton judges. I wonder if he remembers that.

Mr. BOND. Mr. President, I seem to recall that. I thought it was a very statesmanlike and accurate portrayal of the traditions of this body and the requirements of the Constitution, and I once again commend our colleague from Utah, who at that time was in a position where he obviously could have mustered 41 votes to block the nominee. It was the view of those of us who agreed with the Senator from Utah that we should not do that because the people of America elected a President who has—we know and he knows—the power to nominate judges. And it is necessary to maintain a well-staffed judiciary that we give prompt and up-or-down votes to these nominees.

Mr. SESSIONS. I thank the Senator from Missouri. I will say, I did not hear all of his remarks, but I heard a good portion of them, and if anyone would like an accurate summary of the status of our situation, I suggest they read his remarks. So far as I can tell, everything he said is accurate. So far as I can tell, much of what we have heard from the other side is inaccurate, distorting of the traditions of the Senate,

and not a fair summary of the situation we are in. I feel very strongly about it.

There is a huge issue at stake. And the issue is how the Federal courts will be staffed and operate. What do we want and what do we expect from Federal judges? How do we expect them to behave? President Bush says he believes judges should be faithful to the law and the Constitution, that they are not empowered to use activist tactics to reinterpret and manipulate the meaning of the words in the Constitution or a statute to further a personal agenda they might favor. But they are judges. They are referees, umpires to settle disputes by interpreting the law fairly and objectively. If we get away from that, our judiciary is in great danger.

I believe Senator BOND is correct, also, in saying this memo that was just produced, and other actions I have seen over the years I have been in the Senate, indicate to me that too often our colleagues have outsourced their valuation, outsourced their decision making process on judges to very hard-left groups who are not honest, who deliberately distort the record of fine nominees, who attempt to manipulate the press nationwide, who raise money with an effort to destroy people's reputations in a way that is not legitimate and unfair. I believe that strongly. I have seen it time and time again.

It is time to bring that to a conclusion. One of our great traditions in the Senate is to give a nominee an up-or-down vote. Senator HATCH, who is on the Senate floor, was my chairman of the Judiciary Committee for a number of years. Senator HATCH warned us when I came to the Senate. There were a lot of people who felt strongly about some activist nominees of the Clinton administration. We were very concerned with them.

I see my colleague, the Senator from Oklahoma, who was in the House. The House Members were unhappy with us. They thought we ought to filibuster some of these nominees. And we considered it. People discussed it. Senator HATCH made a very strong, clear presentation in the Republican Conference. He said no, that it was against our traditions. It would be bad public policy. It would alter the balance of power in the separation of powers by creating now a super majority needed for the confirmation of judges. He said we should not do it. And the Republicans were in the majority. We had a majority in the Senate, at one time 55 Members.

So the question was, What about some of these nominees that were objected to? I objected to two from the Ninth Circuit very strongly. The Ninth Circuit was the most activist circuit in America. It had been reversed by the U.S. Supreme Court in 27 out of 28 cases. It was out of step. The New York Times said in an article that a majority of the Supreme Court considered the Ninth Circuit a rogue circuit. Yet President Clinton was appointing two ultra-liberal activists to the court.

But what happened to those two judges? We have heard the democrats complain about on occasion: Judges Paez and Berzon. The Republican majority leader of the Senate, TRENT LOTT, called those nominees up and asked for an up-or-down vote by cloture motion. Those of us who opposed them—I certainly was one of them—voted for cloture, voted to give them an up-or-down vote, even though we intensely opposed them. They were given an up-or-down vote, and they were confirmed. President Clinton's nominees, when the majority was in the hands of the Republicans, were moved, after full debate and an opportunity to make their case. They brought them up, and they were given that up-or-down vote. That is the principle under which the Senate has operated.

Some say, well, we might want to filibuster in the future. Well, we have not filibustered in the past, not for 200 years.

Now, how did this situation that we are facing happen? There is no mystery if you look at the history of it. Senator BOND made a number of the points. But not long after President Bush was elected, in 2000, the Democrats went to a retreat. According to a New York Times article that reported on it, three very liberal, capable law professors—Laurence Tribe, Marcia Greenberger, Cass Sunstein—met with them in retreat. And they returned from that retreat with the conclusion that they were going to change the ground rules of confirmations.

That is what we have seen time and again in a whole lot of ways. The ground rules were changed. For example, not long after that, one Republican Member switched parties and we ceased to be the majority party, and so the Judiciary Committee had a majority of Democrats on it. The first nine nominees who had been submitted—several of these nominees were in that group, including Priscilla Owen and others—were nominated in 2001. They would not bring them up in committee. Then after they moved two nominees—one was a minority and the other was a Democrat. They moved those two, but these other fine nominees never moved out of committee. They were changing the ground rules then.

Then after the Republicans regained the majority, they commenced an unprecedented attempt to filibuster in committee—something we had never seen before. We had to have a fight over that in committee, under Chairman HATCH's leadership, and we reversed that. They were going to filibuster nominees in committee. It is so contrary to what they were saying a few years ago on the floor of the Senate.

On Tuesday of this week, Senator BOXER railed against Janice Rogers Brown, but this is what she said about judicial nominees when President Clinton was in office:

> According to the United States Constitution, the President nominates, and the Senate shall provide advice and consent. It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor.

Now, she has been inconsistent, I would say. But Chairman HATCH has been consistent. When he opposed Clinton nominees, he gave them an up-or-down vote, and so did TRENT LOTT. As soon as the situation flops, some of the Democratic Senators flopped. Senator SCHUMER was one of the most outspoken complainers during the Clinton administration. He said:

> I also plead with my colleagues to move judges with alacrity—vote them up or down.

I agree with that, Senator SCHUMER.—

> But this delay makes a mockery of the Constitution, makes a mockery of the fact that we are here working, and makes a mockery of the lives of the very sincere people who have put themselves forward to be judges and then they hang out here in limbo.

Senator LEAHY, now leading the filibuster, was on the floor talking about that. Back when the Clinton administration was submitting judges, he said:

> I have had judicial nominations by both Democrat and Republican Presidents that I intended to oppose. But I fought like mad to make sure they at least got a chance to be on the floor for a vote. I have stated over and over again on this floor that I would refuse to put an anonymous hold on a judge; that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty. If we don't like somebody the President nominates, vote him or her up or down. But don't hold them in this anonymous unconscionable limbo. . . .

Well, I see Chairman HATCH is here. I know the time is a bit drawn. Chairman HATCH and the Republican leadership have been consistent on this issue, even when it was not to their political benefit to do so. We have opposed the idea of filibusters and have not supported it. The Democrats oppose them when it is convenient and support them when it is convenient. I think their position is untenable as a matter of principle and as a matter of public policy, and our country will not be better off for filibustering judges.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I thank my colleague for his kind remarks, and other colleagues as well. I ask unanimous consent that I be given the original half-hour time and that the Democrats be extended an equal amount of time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Mr. President, I appreciate my colleague from Alabama. He knows about as much as anybody who has ever sat on this side of the aisle. He has the sting of having been rejected by the Judiciary Committee Democrats when he was nominated for a Federal

judgeship years ago. I think that is pretty ironic. They knew he was good and that he could do the job. Now he is a sitting Senator who can no longer be ignored, and he has stood up and triumphed for so many good people through the years. I think it was kind of a God-given thing that he was rejected back then, so he could sit in the Senate and tell people the important aspects of the Federal judiciary we have been discussing. I personally love and appreciate him. He has been a great member of the Judiciary Committee and I have a lot of respect for him.

I have also been told that at the beginning of the session today, one of the leaders offered to discharge a number of judges from the committee, or judgeship nominees. I find that pretty ironic because at the end of the 108th Congress, when I attempted to discharge three nominees to the floor—Tom Griffith, our former counsel, nominated for the DC circuit; J. Michael Seabright, who was from Hawaii and was sponsored very strongly by the two Hawaiian Senators; and Paul Crotty, from New York, who was sponsored strongly by the two New York Senators—the Democrats opposed that and said this was extremely unprecedented, and they prevented me from doing so because they claimed ''proper order'' for all nominees.

Forgive me, Mr. President, if I find the recent Democratic request to discharge people they want to discharge—three Sixth Circuit nominees—more than a little disingenuous. It is only done to try to make it look as though they are trying to cooperate when in fact they knew that could not be permitted. The leadership in the Senate will decide what judges come to the floor and we want all of them, including the three from Michigan.

Last week when the Judiciary Committee considered the asbestos bill, one of our Democratic colleagues referred to proposed amendments to that bill and said something very important: Let's debate them up or down. He said it the way the American people believe it, and that is debating and voting is what legislators do. Let's debate them and then vote them up or down.

The Senator offering that idea was my colleague from Vermont, Senator LEAHY. He was speaking then about legislation, but he and other Democrats once insisted the Senate should follow the same principle as we evaluate the President's judicial nominations.

In October 1997, for example, he said on the Senate floor:

> I hope we might reach a point where we as a Senate will accept our responsibility and vote people up, vote them down. Bring the names here. If we want to vote against them, vote against them.

Of course, at that time, a Democratic President was in power. That may have been the difference between then and now.

It is always refreshing to see our fellow citizens from all over this great country coming here to sit up in the galleries and observe their Senate at work. Some of them with us today might actually be asking, Why is the Senator from Utah making such a big deal about something that is so obvious—votes up or down, that is. Many of our fellow citizens may be surprised to learn that some of the Senators they elected and sent to Congress are refusing to vote on nominations. They might share the sentiment of former Democratic leader Senator Tom Daschle when he said in 1999—of course, Clinton was President:

> I find it simply baffling that a Senator would vote against even voting on a judicial nomination.

That is what they are doing. I guess it makes a difference whether your President is President or whether the opposition President is President. I happen to think there are certain virtues that ought to be maintained, no matter what.

Those Senators on the other side are blocking votes because they know they will lose those votes. If we debate these nominees, America would better understand why we need judges who will interpret, not make, the law. Americans will see how these highly qualified judicial nominees meet that standard, and America will see that these nominees, every one of them, have a bipartisan majority support.

What is wrong with giving them a vote up or down? The political forces promoting an activist political judiciary oppose many of these nominees, and their strategy is simple. The Senate cannot confirm nominees if Senators cannot vote on them. We cannot vote if we cannot end debate. These filibusters use Senate rules to prevent ending debate, prevent taking a vote, and prevent confirmation of these judges. That is not only baffling, it is unprecedented. This is not a tangent, an academic issue, or a question that will 1 day be found in the game ''Trivial Pursuit Senate Edition.'' This issue is central to this debate, and our Democratic colleagues know it.

Some are so desperate to claim even one single solitary precedent for what they are doing that they stretch, twist, and morph the word ''filibuster'' beyond all recognition. They want the word ''filibuster'' to mean so many things that it ultimately means virtually nothing at all.

Unfortunately, these mischaracterizations of Senate history, tradition, and rules cynically exploit the fact that many of our fellow citizens have not mastered the particulars of Senate history, the peculiarities of Senate procedure, or the idiosyncrasies of the confirmation process. Misleading, confusing, patently false claims can easily take on a life of their own, echoed and repeated throughout the media, cyberspace, and even here on the Senate floor.

We all know it can take a long time for what is true to catch up with what is false. Judicial filibuster defenders who claimed that when the Senate voted to end debate on past judicial nominations, we were actually filibustering those nominations; that when we voted down debate and confirmed them, we were actually filibustering—poppycock. They want Americans to believe that ending debate then justifies refusing to end debate now. Poppycock. Or they claim that when the Senate voted to confirm judicial nominations in the past, we were actually filibustering those nominations when we voted to confirm them. That is how far they have gone to try and justify these inappropriate actions.

They want Americans to believe that confirming nominations then, as we did, justifies refusing to confirm them now. Those bizarre claims focus on what happens here on the Senate floor at the end of the judicial confirmation process. Sometimes judicial filibuster defenders on the other side have focused instead on what happens in the Judiciary Committee, an earlier phase in the process. Some appear willing to try anything to create a precedent for their filibusters. Some even claim that any nomination which is not audibly confirmed, no matter what the reason, no matter what the step in the process, has been filibustered. Giving a word any meaning you want may help make any argument you want to make, but it does not make that argument legitimate. This gimmick may have some public relations punch. It leads to cliches such as ''pocket filibuster'' or ''one-man filibuster,'' and creates villains, such as me. What kind of campaign would this be without a bogeyman? After all, I was chairman of the Judiciary Committee for 6 years under President Clinton.

Never mind that the Republican Senate confirmed 377 judges for President Clinton, just 5 short of the all-time confirmation record set by President Reagan. Bill Clinton was the second confirmation champion of judges in the history of this country, and he had 6 years when I was chairman. I wonder how that happened if I was so partisan.

Never mind that President Reagan had his own party controlling the Senate for 6 years while President Clinton had the other party, the Republicans, controlling the Senate for 6 of his years. So Reagan had his own party help him for 6 years. President Clinton only had his own party for 2 years, and yet he still came in just five votes shy of President Reagan. And if my recollection serves me correctly, he would have been three ahead of him had it not been for Democratic holds on their side. One Senator was not getting his; therefore, he would not let anybody else get theirs. It happened. Never mind facts such as that.

The assistant minority leader yesterday claimed every Clinton nomination that was not audibly confirmed was filibustered and that I personally buried them. My hand alone held back a confirmation wave of apparently mythic proportions. Look for a moment what it takes to believe every

unconfirmed nominee is a filibustered nominee. It requires believing dozens of nominees President Clinton himself withdrew were filibustered. Preposterous. President Clinton, for example, withdrew one of his court nominees fewer than 6 months after her nomination because of health concerns. Her nomination did not get out of the Judiciary Committee, did not receive a floor vote, and was not confirmed. But was she filibustered? They seem to think so.

Is her situation the same as Justice Priscilla Owen who has been waiting for more than 4 years and cannot get a floor vote because of a Democratic filibuster, a leader-led partisan filibuster, the first time in history?

This line that all unconfirmed nominees are filibustered nominees requires you to believe ill-founded arguments such as that. It also requires believing that the 28 nominations sent too late to be considered or which President Clinton chose not to resubmit were filibustered.

That is how they add, they double count. It is ridiculous. Preposterous is the word.

It requires believing that nominations not given hearings because of opposition by their home State Senators were filibustered. We have had that go on for years, whoever has been in power. Home State Senators have a lot of swat. The Judiciary Committee system that gives extra weight to the views of Senators from a nominee's home State has been in place in various forms for nearly a century. Democrats, as well as Republicans, use it. I do not hear the Democrats who now want to call these situations filibusters also calling to abolish that system of home State senatorial courtesy. They cannot have it both ways.

The majority leader, Senator FRIST, recently offered a proposal that would not only address our concerns about the floor by ensuring up-or-down votes, but also address Democrats' concerns about the committee by guaranteeing reporting of nominees. The majority leader tried to do that. Democrats rejected that offer. They are not going to give up their rights in committee anymore than Republicans should give up their rights in committee.

But that is not filibustering, I can guarantee that. Either they think treatment of judicial nominees in the Judiciary Committee is a problem needing a remedy or they do not. They cannot have it both ways. Democrats know that many factors determining whether a nomination is approved by the Judiciary Committee are not simply up to the chairman's unilateral discretion. What galls me is some who have made the argument. One in particular this morning begged me to get his judges through, and I have to say there were real questions about his judges, but I put them through because they were nominated by the President. He came to me and asked that I get it done. I did it for countless Democrats in the 6 years I was chairman of the committee during the Clinton years, and they know it. They do not have any other arguments.

So what do they want to do? They want to vilify the chairman of the Judiciary Committee who has had to put up with all kinds of machinations in the Judiciary Committee from both sides, whoever the chairman is. Democrats know there are procedures in the Judiciary Committee and on the floor for forcing a committee chairman to act if Senators believe the chairman is dragging his feet and that those procedures were never used, never even attempted, while I was chairman. Why? Because they knew darn well I was trying to do the best I could.

They do not have any other arguments. They cannot justify their position. Democrats know these things. They also know that many of our fellow citizens do not. So the spin machine cooks up this tail that all unconfirmed nominees are filibustered nominees, attempting to make people believe there is some precedent, even a totally fictional precedent, for their current filibusters. Saying that ending a debate is the same as not ending a debate did not work. Saying that confirming nominations is the same as not confirming nominations did not work. Saying that President Clinton's near record confirmation total is evidence of unfair treatment by Republicans will not work either.

On Tuesday the distinguished Senator from Wisconsin, Mr. FEINGOLD, was making a few other arguments. He pointed out that the text of the Constitution does not require an up-or-down confirmation vote for a judicial nomination.

Well, many of our colleagues on the other side of the aisle attack judicial nominees when they take the Constitution's text this seriously. But I am glad that the Senator from Wisconsin is doing so.

The word ''filibuster'' is not found in the Constitution, either. Nor are phrases such as ''unlimited debate,'' ''minority rights,'' or even ''checks and balances,'' as misused as those terms have been by the other side.

None of the phrases used by some to try to give these judicial filibusters a constitutional anchor are in the chartered text, the constitutional text. What the Constitution does say, however, is that the President has the power to nominate and appoint judges—not the Senate, the President has that power. Our role of advice and consent is a check on the President's power to appoint.

When the filibuster turns our check on the President's power into a weapon that hijacks the President's power, then, yes, it has indeed violated the design that is most certainly in the text of the Constitution, and that is what they are doing.

The Senator from Wisconsin also said the procedure the majority leader may use to prohibit judicial filibusters will mean changing the Senate rules by fiat. That is a variation on the Democratic mantra that this would break the rules to change the rules. That is a catchy little phrase but neither of its catchy little parts is true.

The Senate operates not only by its written rules but also by parliamentary precedence established when the Presiding Officer rules on questions of procedure asked by the Senators. What we call the constitutional option would seek such a ruling from the Presiding Officer. After sufficient debate, the Senate should vote on a judicial nomination. That is what the ruling would be. Senate precedents and procedures would change, but Senate rules would remain unchanged. No breaking of the rules, no changing of the rules.

Senators use the word ''fiat'' because it sounds bad and fits with the abuse of power theme probably born in some liberal focus group somewhere. The word attempts to give people a bad impression, but it should give them an even worse impression to know that it is patently false.

The Constitution gives authority over Senate rules and procedures to the Senate, not to the Parliamentarian or to the Presiding Officer but to the Senate. If the Presiding Officer rules on the question of procedure, it will not actually change Senate procedures until a majority of the Senators vote to do so.

Just as American self-government is radically different from monarchy, Senate self-government is radically different from fiat.

The Senator from Wisconsin said that whenever the Senate merely takes a cloture vote or a vote to end debate, a filibuster is always underway. That, too, is patently false.

Let me refer to this chart. This is what the Congressional Research Service said on April 22, 2005:

> It is erroneous to assume that cases in which cloture is sought are always the same as those in which a filibuster occurs.

Let me repeat that.

> It is erroneous to assume that cases in which cloture is sought are always the same as those in which a filibuster occurs.

Let me use two examples. Among President Clinton's most controversial nominees were Marsha Berzon and Richard Paez nominated to the U.S. Court of Appeals for the Ninth Circuit. Our colleague from New York, Senator SCHUMER, who has spoken many times on the floor on this issue, in November 2003 called these nominees ''very liberal,'' and, ''quite far to the left.'' Now, that is quite something coming from a Senator who has never been called even a little bit to the right.

On November 10, 1999, the majority leader at the time, Senator LOTT, promised that he would bring these controversial nominations up for a confirmation vote no later than March 15, 2000, and that was at my request. He correctly said that I agreed with using the cloture vote to ensure that a confirmation vote occurred. In other words, it was used to get to a vote.

On March 8, 2000, that is exactly what we did. It was of a procedural floor management device. The first two names on the petition for the cloture vote happened to be Senator LOTT and myself. We took that cloture vote to prevent a filibuster and to ensure an up-or-down vote. We prevented a filibuster. That vote occurred, and the Senate confirmed both nominees. They are today sitting Federal judges. Otherwise we would have kept going on and on on the Senate floor. We decided that is the way to get to a vote, and we did.

The Senator from Vermont, Mr. LEAHY, said on Tuesday that the constitutional option which would use a parliamentary ruling to prohibit judicial filibusters would ''use majority power to override the rights of the minority.'' I have called this parliamentary approach the Byrd option because when Senator BYRD was the majority leader in the late 1970s and early 1980s, Senator BYRD used it to change Senate procedures. He did so regarding legislation and also regarding nomination-related filibusters.

In 1980, for example, then-Majority Leader BYRD wanted to prohibit filibusters with a motion to proceed to nominations, and they could do that back then, just as a confirmation vote cannot happen if debate does not end. Debate cannot start if the Senate cannot vote to proceed to that debate.

Today we hear that any limitation on debate, any restriction of the filibuster, strikes at the very heart of the essence of this institution. Maybe it was a different story back then when they were in control. When the Presiding Officer ruled against what Majority Leader BYRD was trying to do, he then appealed that ruling and the Senate voted to overturn it, effectively terminating those nomination-related filibusters. He knew how the vote was going to turn out in the end.

I remind my colleagues what my good Democratic friend from West Virginia said when he used the procedure to change the filibuster rule, on January 4, 1995, during the Clinton administration. He said:

> I have seen filibusters. I have helped to break them. There are few Senators in this body who were here [in 1977] when I broke the filibuster on the natural gas bill. . . . I asked Mr. Mondale, the vice president, to go please sit in the chair; I wanted to make some points of order and create some new precedents that would break these filibusters.

Then he said this:

> And the filibuster was broken—back, neck, legs, and arms. . . . So I know something about filibusters. I helped to set a great many of the precedents that are on the books here.

Well, the Senator was candid. I personally admire him for it. On at least three other occasions, Majority Leader BYRD used a ruling by the Presiding Officer to change Senate procedures without changing the underlying Senate rules.

The Senator from Vermont says that using this very same mechanism today would be an outrageous trashing of minority rights. Yet he voted every time to support Majority leader BYRD'S use of that mechanism, including to eliminate nomination related filibusters.

Yesterday, the Senator from Illinois, Senator DURBIN, claimed that Senate rules, in his words, from the very beginning, required an extraordinary majority to end debate.

Now that is factual claim, and it is factually false.

The Senate adopted its first rules in 1789. Rule eight allowed a simple majority to proceed to a vote. The men who founded this republic designed this Senate without the minority's ability to filibuster anything.

Over the last few days, many excuses have been offered why some refuse to debate and vote on judicial nominations that reach the Senate floor.

Let me correct that. While these may be their reasons, there are no valid excuses.

When procedural obstructive devices such as the filibuster are kept where they belong, in the legislative process, the debate can properly focus on the merits of these nominees. That is what debating and voting should ultimately be about, the President's nominees.

The debate we have seen here on the Senate floor regarding nominees such as Justices Priscilla Owen and Janice Rogers Brown is typical of what we will see in the future regarding other nominees.

Many of our fellow citizen may know little of the Senate's Byzantine procedures, they may know little about judicial rulings, they may not speak legalese, but I hope they will not be afraid to participate in this process.

Let me offer a few pointers, a few tips, for the road ahead.

Politics is often about results, about winners and losers, and involves politicians asserting their will. Law is about the process of reaching results, about what the law requires, and involves judges using judgment.

Politics and law are two very different things, and our liberty depends on preserving that difference. So if you hear critics of judicial nominees talking only in the language of politics, you know something is wrong.

In the last day or two, for example, critics of the nominees before us have reduced them to sound bites, checklists, and litmus tests.

Senators begin sentences with phrases such as she ruled that . . . or she ruled for. . . .

Mentioning only those results, without exploring how a judge reached those results, amounts to applying political criteria to a judicial nominee, and that is fundamentally wrong. Sometimes the law requires results we may not like, results that may even sound dramatic.

Mentioning the political results without the judicial process leading to those results misleads people about what judges do and how to choose the rights ones.

Or the critics will characterize what a judge said rather than tell us what she actually said.

Or if they do quote the judge, critics will often pluck out only a phrase, or use lots of ellipses.

These are signs that spin may be in the air.

Or the critics will quote other critics. Imagine if the only thing someone knew about you came from what your critics or enemies said about you. That picture would be distorted, incomplete, and just plain false.

So our fellow citizens should not be worried that they do not know the language of lawyers, that they have not read a judicial nominee's writings or rulings, or are not well-versed in the fine points of legal argument.

I hope they will listen critically to the debate here in the Senate about these nominees, their qualifications, and their records.

I hope our fellow citizens will be very skeptical of critics who make a political case against a judicial nominee, skeptical if the case against a nominee is limited to soundbites about results or characterizations by third parties.

Let me conclude my remarks by noting that in September 2000, the Senator from Michigan, Senator LEVIN, said that the Constitution each of us has sworn to protect and defend requires that we debate and vote on judicial nominations reaching the floor.

I agreed with that principle then, and I agree with it today.

For more than two centuries, we kept the filibuster out of the judicial confirmation process.

It is surely not a good sign about our political culture that we must today formalize by parliamentary ruling a standard we once observed by principle and self-restraint.

But that self-restraint has broken down, and maintaining our tradition of up or down votes for judicial nominations is worth defending. Once we take unprecedented obstruction tactics like the filibuster off the table, we can focus where we should, on the merits and qualifications of nominees.

We must have a standard that binds both political parties. That standard must be fair, it must respect the separation of powers, and it must be consistent with our own Senate tradition.

Between 1789 and 2003, we had a strong consistent tradition of voting on judicial nominations once they reach the Senate floor.

We should return to that principle and practice.

Unfortunately, in 2003, the Democratic leadership broke with this longstanding Senate tradition and took an ill-founded turn down a partisan political path and unwisely changed the confirmation process in an unprecedented fashion.

We must turn back from that path. Once a judicial nomination reaches us here, our course should be clear. Let us debate and then let us vote.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand that under the previous agreement, I have 15 minutes. Is that correct? Mr. President, I will yield myself 15 minutes. I ask consent to be able to proceed for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask the Chair if he will be good enough to let me know when there is 3 minutes left.

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mr. KENNEDY. I thank the Chair.

Mr. President, I will take a few moments of the time of the Senate, and for those who are watching this debate, to try to put this whole issue of what I consider to be an arrogant grab for power in some perspective. I urge my colleagues, perhaps over the course of the weekend, take 2 or 3 hours and reread the debates on the Constitutional Convention, about how our Founding Fathers wanted the selection of judges for the courts of this country to be done.

There were three different occasions during the Constitutional Convention when our Founding Fathers considered who should appoint the judges who were going to serve on the courts of this country. The first two times the Founding Fathers debated this and discussed this, they made a unanimous recommendation that it would be solely the Senate of the United States that would be the sole judge for nominating and approving judges who were going to serve on the courts. Then, as the Constitutional Convention came to an end, 8 days before the end of the Constitutional Convention, they came back and they were reviewing the totality of their work and at that time they made a judgment and decision that was virtually unanimous that they would provide a shared responsibility between the executive and the Senate of the United States.

No one can read the debates of the Constitutional Convention and not understand that the Senate of the United States is effectively, in the eyes of the Founding Fathers, a coequal partner in the naming of judges.

I know it has been fashionable around here for many years, particularly for those of the majority party—and I have seen it done even on our side when we were the majority party—for a Democrat to say: Look, if the President of the United States nominates, there has to be a heavy burden on any individual to vote against it. It ought to be automatic. It ought to be effectively a rubberstamp.

That has never been my position. I have always felt and understood that we have an independent judgment and decision as charged by our Founding Fathers to exercise our own good judgment. That has been the history of the Senate.

We have listened—I have—to a lot of debates, saying what we are doing is going back to the original intent of our Founding Fathers. That does not happen to be factually true.

I reviewed yesterday those who have held the seat I hold in the Senate. Going back to John Quincy Adams, going back to Charles Sumner, going back to Daniel Webster—to President Kennedy—the series of Supreme Court nominees they considered, and those they voted for and those they voted against: there never was a single time when any Senator from Massachusetts was effectively muzzled, silenced, gagged when they were expressing their conscience, their view about the members going to the Supreme Court or the circuit courts, not in the history of this body, never.

But under the proposal of the majority leader, that will no longer be the case. That no longer will be the case. It is not only the silencing, the muzzling and gagging of any of the Members in here; it is breaking the rules in the middle of the game.

We have parliamentary rules, like any other legislative body, and we have ways of changing and altering those rules. They are all laid out. I will mention them briefly. There is a way to change the rules if we do not like them and we can follow them and conform them to our views. By the Senate rules we can alter and change them. Is that what is going to be before the Senate in the nuclear option? Absolutely not. Absolutely not.

There is a way to change them, but not the way the Republican leadership and this administration want to do it. They are effectively tearing up the rules. They are basically running roughshod over the Senate rules, the institution that has served this Nation well for 224 years. That is what is being proposed. When all is said and done, we mention all these other past histories of activities, this is effectively what is being done.

I think most Americans may take issue with what happens here in the Senate. They may agree with the activities of the Senate or may differ with them. But one thing in which the American people have some degree of confidence is their basic institutions of Government. With the proposal by the majority leader, we are rending asunder the power and the authority that was described in the Constitutional Convention and described in the Constitution for the Senate. That is why people are feeling so strongly about this, many of us feel so strongly about this—because basically we are undermining what our Founding Fathers wanted.

This is an issue that has been overhanging the Senate now for some weeks, for some months, in spite of the fact that we have approved 208 of the President's judges: 95 percent, a higher percentage than the previous President Bush. What is suddenly the difference? This President has a higher percentage of his nominees approved than the first President Bush, Bush 1. The difference is a different political climate. There is a radical right out there that is loose in the country. They feel they won the Presidency, the House of Representatives, the Senate of the United States and, by God, they are going to take over the independent judiciary.

That is what this is all about. Meantime, while the so-called nuclear option has been hanging out over the Senate, what in the world have we been doing for the last 5 months? January, February, March, April, and now the third week in May?

When I go back to Massachusetts, the people there are talking still about job security and its uncertainty. They are talking about whether they are going to continue to be able to have health insurance. They are talking about escalating prices of prescription drugs. They are talking about the increased costs of tuition, whether their children are going to be able to go to college. They are talking about what is happening in the schools and the school dropout problems and the fact so many classes in our Nation don't have well-trained teachers. They are talking about the needs for special education teachers. They are talking about supplementary services for children going to high schools that were guaranteed in the No Child Left Behind Act and too many of our school districts are not doing; that is what they are talking about.

But what have we been doing? Waiting for the nuclear option. Which means what? Tear up the rules and we pass class action bills benefitting corporate America, we pass bankruptcy bills that will help the credit card industry. We did take 2 weeks, and deservedly so, on the supplemental appropriations, and we included an amendment to add some armor for our troops over there, of which I highly approved. That is it. That is the record. Nothing we really care about. Why? Because we have been absorbed with the nuclear option, changing and altering the rules. Mr. President, 95 percent of approval of this President's nominees has been achieved.

I frankly feel a great deal of this responsibility is right down at the other end of Pennsylvania Avenue. I can remember in January of this year, in the wake of the conclusion of the election and all of us said, This President won. We congratulate him. We have to bring the country back together. I certainly voiced that.

My colleague, Senator KERRY, certainly voiced that. What happened? The ballots are barely cast and the votes are hardly counted, and this President sends up the nominees that have been debated, discussed, had hearings, and voted on in the Senate and said: You have to pass these, Senate, or we will change the rules.

I have taken the time of the Senate in going over the qualifications of these. These are not just ordinary nominees. I have gone over these in some detail. These nominees are radical. I would say, radical, outside the

mainstream. If you have a nominee such as Mr. Pryor, who thinks we ought to repeal the Voting Rights Act, I think he is out of the mainstream.

What he says in his legal papers is in complete conflict with and has been rejected unanimously by the Supreme Court. He does not understand the Americans With Disabilities Act. He does not understand that Republicans and Democrats alike voted for the Americans With Disabilities Act to bring those that are challenged, mentally and physically, into the mainstream of American society. We spent weeks and months and years to pass that legislation. This is not one Senator who will vote for someone that absolutely wants to undermine and eviscerate it, destroy it, and end it. That is what Mr. Pryor's positions lead to.

So these are not people that are in the mainstream. We have expressed that. We ought to be able to express it. But that is not satisfactory to this administration. No, no. They want to change the rules. That is what this will be all about. They are effectively saying: Look we have nominated, and you are going to go ahead and approve.

We have 224 years where they have not been able to silence us, and now they will be able to silence us. But not with this Senator's support.

These are the rules, and I welcome any on the other side to dispute them, and I invite them to put that in the RECORD. First of all, they will have to put the Vice President of the United States in the Presiding Officer's chair. There will not be another Senator in that chair to make the ruling because it is not going by the rules of the Parliamentarian.

Do listeners understand that? It is akin to going to the football game and the referee and the umpire call the penalty or the touchdown and someone else from the crowd says, no, no, that does not count, and for us it recognizes the ''someone else'' in the crowd. That is what they are doing. They will replace a Member of the Senate. We have, as we do now, the distinguished Senator from Tennessee sitting in the chair and presiding over the Senate. But that will not be true that particular day.

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 a rule.

And then they break paragraph 2, rule V, which provides that the Senate rules remain in force from Congress to Congress unless they are changed in accordance with existing rules.

Then they 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 a nomination.

Then they have to break rule XXII requirement of a petition, a 2-day wait, and a two-thirds vote to stop debate on a rules change.

They have to break scores of the rules. It will make a sham of the rules and parliamentary procedures of this Senate. It is wrong.

We are witnessing in this debate an arrogant power grab by the Republican right. This is what happens when the rightwing of the Republican Party calls the tune for the Republican Party as a whole. We are spending days and weeks debating five rightwing judges but not 5 minutes on what counts in most people's lives: Secure jobs, healthy families, educational opportunity. Those are not the values and priorities we see today from the White House and this Republican Congress. To them, history does not matter. Mainstream values do not matter. Our commitment is to working families, and that does not matter.

What the Republican Party cares about today is putting a rightwing agenda ahead of mainstream values, corporate interests ahead of public interests, and the agenda of the privileged few ahead of the American dream for all.

We, as Senators, have a choice as well. We can break the rules and run roughshod over our constitutional system of checks and balances or we can seek accommodation and compromise for the good of our democracy and the strength of our Nation.

The one thing standing between the White House and total control of the Congress and the courts is the Senate's right to full and fair debate. Let's not give it up.

As many of us have said, if Republicans persist in the course they have set, they will destroy the ''compact of comity'' that enables the Senate to fulfill its constitutional responsibilities.

Outside the Capitol, the gravity of that danger may not be self-evident.

''Comity'' may be an unused word today, but for 200 years it has been the lifeblood of daily life in the Senate.

In the Senate, comity is the glue that binds us to one another and to that small but brilliant group of Framers who met, over two centuries ago, and conceived of this institution.

They certainly knew what comity was: they came from totally different views of government.

They labored ceaselessly, in the heat of a Philadelphia summer, in the ultimate American Government Seminar, until they created a government that was reliable, resilient—resistant to attack from within and without.

Comity among the Framers—their overriding ''agreement to agree'' despite their deep differences—informed and nourished their efforts. They worked especially hard to design the Senate.

Their debates were all about great challenges:

What size would be right to enable the Senate to serve as a check on the other House and the President too, and still place personal responsibility for their actions on individual Senators?

How long should each Senate term last, to set the proper balance between the strong, independent Senate they wanted and the potential tyranny of an aristocratic upper House, insulated from popular opinion?

Who would make better judicial choices, the Senate or the Executive?

Fortunately for us today, their debates were not just theoretical. They were very real and very practical. The Framers understood they were creating a new experiment in the history of government as they worked to combine their diverse views into a single concise blueprint.

Despite vigorous and fundamental disagreements at the start, they retained their respect for one another, their capacity for reason, their shared concept of what this Nation could be, and what its government should be. Consensus was not just a goal, but a necessity. Compromise not just an option, but a cornerstone of their creation.

It is not an exaggeration to say that if that ''compact of comity'' is not preserved, the Senate and the Government will suffer mightily. Our vital role in the machinery of checks and balances will fade, and the nation will be left diminished.

What would the Framers have done if faced with the challenge we face?

They would clearly have counseled respect and moderation.

It is not respectful or moderate to suggest, as one of our colleagues did, that judges may have it coming to them if their decisions outrage some people. It is not respectful or moderate to suggest, as the majority leader did yesterday, that Senators are equivalent to the assassins of judges because they strongly criticize the political or ideological views of judicial nominees. As part of its advice and consent function, the Senate has done that since 1795, when it rejected George Washington's nomination of John Rutledge to be Chief Justice.

The majority leader's use of the word ''assassinate'' was especially unfortunate, coming in the very day that Judge Lefkow of Chicago was testifying to our Judiciary Committee about the brutal murders of her family members.

The Founders also would have counseled us about communication. We work with members of the other party every day. We talk to them every day. But I can't think of one of them who has come to me over the past 2 years to say, ''This judicial nomination issue is headed the wrong way—we ought to start talking about how to preserve our institution's strengths and traditions, and solve the problems that these judicial nominations are creating for us all.'' We all know it is very late in this contest of nuclear ''chicken,'' but it is never too late to try.

The Framers would also have told us to minimize the distortions and respect the truth. Again, and again, we are told that there was no Republican-led filibuster of the Fortas nomination to be Chief Justice in 1968. There are still three of us in the Senate today, who were in the Senate then, and who know the truth firsthand. It demeans the Senate and discredits the debater when

someone parrots the bizarrely erroneous White House talking points denying such a filibuster, without having the grace to check the facts.

The Founders would also have told us to take extremely seriously what James Madison in Federalist No. 62, called ''the senatorial trust,' which require[es] a greater extent of information and stability of character.''

As Madison understood, Senators are not the owners of this institution, but we are more than just its occupants. We are, its trustees, with an awesome responsibility to protect that trust—this body—the Senate. That means we must preserve what makes it work well—like extended debate and the super-majority cloture rule.

A central part of that senatorial trust is standing up to the President when he overreaches in the exercise of his power, as he has done with the few, but important, still hotly contested circuit nominees.

Finally, the Framers would say that our endangered senatorial trust needs comity more than ever in our day-to-day activities and relationships. As Madison stated, the comity the Framers had in mind was—''the result, not of theory, but 'of a spirit of amity, and that mutual deference and concession which the peculiarity of our political situation rendered indispensable.' '' That is what we must aspire to. That is what we must accomplish if we are not only to solve our present dilemma but leave this place as least as fine an institution as we found it.

Who are the nominees that the Republicans so want confirmed that Senator FRIST is willing to violate the rules of the Senate?

They include Janice Rogers Brown, who has been nominated to the very important DC Circuit, which is widely regarded as the most important court of all the courts of appeals, and whose decisions affect the rights of all Americans. She has a compelling personal story, which all of us respect. But confirmation to the DC Circuit requires more than a compelling personal story. It requires a record of clear commitment to upholding the rights of all Americans. It requires a record of clear dedication to the rule of law—not remaking the law to fit a particular political view.

Janice Rogers Brown fails this basic test. Her record on the California Supreme Court makes clear that she's a judicial activist who will roll back basic rights. Her 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 DC Circuit.

She has repeatedly voiced contempt 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 has questioned whether age discrimination laws benefit the public interest. She has 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.''

Yet my colleagues say we're wrong to worry about putting Janice Rogers Brown on the DC Circuit, which is widely regarded as the most important court of appeals, and is just a heartbeat away from the Supreme Court.

No one with these views should be given a lifetime appointment to the Federal court of appeals, and certainly not to the Federal court most responsible for cases affecting government action. It is 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.

In the area of civil rights, Justice Brown has also written opinions that would roll back basic protections. In a case involving ethnic slurs against Latino workers, Justice Brown wrote that the first amendment prevents courts from stopping ethnic slurs in the workplace, even when those slurs create a hostile work environment in violation of job discrimination laws. She dissented from a holding that victims of discrimination may obtain damages from administrative agencies for their emotional distress. She also wrote an opinion suggesting that Supreme Court decisions upholding affirmative action are inconsistent with laws against discrimination.

On workers' rights, she rejected a binding precedent limiting an employer's ability to require workers to submit to drug tests.

In another case, she wrote a dissent urging the California Supreme Court to strike down a San Francisco law providing housing assistance to low-income, elderly, and disabled people. In case after case, she has sought to undermine the rights of the American people.

It is a travesty that the majority leader is attempting to break the rules of the Senate to confirm such nominees. It takes 67 votes to change Senate rules. Because the majority leader can't win fair and square, he is proposing to break the rules in the middle of the game.

We have heard them make every argument in an attempt to disguise their raw abuse of power. They even claim the Constitution prohibits Senators from filibustering judicial nominees. But as Senator FRIST, the majority leader, admitted on the floor recently, that's nowhere in the Constitution. Certainly the Republicans didn't believe that when they were filibustering President Clinton's nominees—including when Senator FRIST, himself joined in a filibuster of a circuit court nominee in 2000.

This misreading of the Constitution and Senate rules is the same kind of distortion we have seen from the nominees they support.

We have seen it in Priscilla Owen's opinions twisting the law in an attempt to deny the insurance claim of a heart surgery patient, or to exempt campaign contributors from environmental regulations. We have seen it in Janice Rogers Brown's twisting the Constitution to claim job discrimination laws can't protect Latino workers from ethnic slurs in the workplace. We have seen it in William Pryor's opposition to basic protections for the disabled, voting rights, and family and medical leave—views rejected by the Supreme Court. And we've seen it in William Myers' opinion that cleared the way for an open-pit mine on land sacred to Native Americans—an opinion that a Federal court later said ignored ''well-established canons of statutory construction.''

These nominees do not deserve lifetime appointments to the federal courts, where they have enormous power over the American people.

More importantly, the Senate does not deserve the bitter legacy we would leave if we adopt the nuclear option. It is not worth running roughshod over the traditions of this institution for short-term political gain. It is not worth turning our backs on our constitutional role as a check and balance on Presidential appointments to the courts.

Alexander Hamilton said this about the need for the Senate to be an independent check on the President's nominations.

''To what purpose [do we] require the co-operation of the Senate? . . . It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters.''

That's what Alexander Hamilton said the Senate should be—a check against overreaching by the President, not a rubber stamp for the President. I urge my colleagues to remember that as United States Senators, we are the keepers of a constitutional trust that is not ours to give away. That trust belongs to the American people. The system of checks and balances protects them. If we give away that trust, we will never get it back.

What we are witnessing in this debate is an arrogant power grab by the Republican right. This is what happens when the rightwing of the Republican Party calls the tune for the Republican Party as a whole. We are spending days and weeks debating five rightwing judges, but not 5 minutes on what counts most in people's lives—not 5 minutes on secure jobs, or healthy families, or educational opportunity. Those are not the values and priorities we see today from this White House and this Republican Congress.

To them, history doesn't matter. Mainstream values don't matter. Our commitment to working families doesn't matter. What the Republican Party cares about today is putting a rightwing agenda ahead of mainstream values, corporate interests ahead of the public interest, and the agenda of the privileged few ahead of the American dream for all.

We have approved 208 of George Bush's nominees to the federal courts. Two hundred eight. But the five right wing judicial nominees at stake in the nuclear option have no business making life-or-death, make-or-break decisions that affect our lives. They are anti-worker, anti-civil rights, anti-disability, anti-senior, anti-consumer, and anti-environment.

This is President Bush's moment of truth too. Instead of fanning the right wing flames, the President can end this abuse of power. He can pick judges closer to the center, not from the outer edge.

We as Senators have a choice as well. We can break the rules and run roughshod over our constitutional system of checks and balances, or we can seek accommodation and compromise for the good of our democracy and the strength of our Nation. The one thing standing between The White House and total control of Congress and the courts is the Senate's right to full and fair debate.

I urge the President, I urge the Republican leadership in the Senate, to heed the timeless words of the prophet Micah who wrote, ''What is good and what does the Lord require of you but to do justice, and to love kindness, and to walk humbly with your God?''

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 ⅗ 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 ⅔ 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 pre-emptive 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.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The minority has 1 hour 50 minutes remaining.

Mr. BYRD. I wonder how much time the minority will give to me?

I shall proceed.

Mr. President, today I wish to speak about the history of freedom of speech in the Senate, about the cloture rule which, when invoked, limits debate, a bit about the background here that might help all Senators if they care to read or listen, and the people out there who are listening, help them to understand a little more about what this is all about.

It is a matter of very great interest to the country and to the Republicans and to Democrats and to independents, to people from all walks of life. It is in that spirit that I seek to talk just a little while about this subject which is of great concern. I hope to have more to say on another day, but today I will limit myself to talking about the background, what this is all about, and the history that brings us to where we are today.

In recognition that the duty imposed on the President faithfully to execute the law requires persons sympathetic to his program, the Senate traditionally has given the President great leeway in choosing his policymaking subordinates, especially those in his Cabinet and those in sub-Cabinet positions. The Senate has more or less uniformly followed this practice, as a matter of grace and in the spirit of cooperation, to ensure that the executive branch functions as a team in implementing and enforcing the laws.

What has been the fairly general practice with respect to the appointment of executive branch policymakers, however, has not always applied to judicial nominations, and the arguments to the contrary are at odds with the separation of powers doctrine, common sense and history.

The Constitution establishes a Supreme Court and gives Congress the power, in its discretion, to constitute inferior tribunals; nowhere in the blueprint of our Government is it hinted—is it even hinted; nowhere is it even hinted—that the high Court or any other Federal court is the President's court.

Some may say, well, the President should have his own Cabinet. He should have his Cabinet. He should be able to choose his Cabinet. And there is considerable weight to be given to that point of view. But I do not think that any of us should maintain that the President is entitled to have his own court. That is the point.

So nothing in the Constitution suggests that either the Justices or the judges should be the President's men. Let me say that again. Nothing in the Constitution suggests that either the Justices or judges should be the President's men or women, as it were. In fact, the Constitution refutes this notion by granting Federal judges lifetime tenure and by making their compensation inviolable.

The men who met in Philadelphia in that hot summer of 1787 were practical statesmen. They were experienced in politics, statesmen who viewed the principle of separation of powers as a vital check against tyranny. And so I ask, can a rubber stamp be ''a vital check against tyranny''? If the Framers had intended the Senate simply to endorse the President's selections, the Senate could have been left out of the process altogether. Clearly, the men who met at Philadelphia, nearly 219 years ago, had in mind a more substantive role for the Senate.

The Senate has more than once flexed its political muscles to reject a Presidential nominee, including the rejection or withdrawal of 15 Cabinet nominations and 26 Supreme Court nominations. Confirmation power is one of the major constitutional provisions that separates the Senate from

the other body, the House of Representatives. It has been the subject of numerous articles, books, novels, and even motion pictures.

As early as Henry IV, who reigned from 1399 to 1413, English Parliaments effectively controlled the King's royal council and household. Several officials of Henry IV's household were dismissed at the insistence of the House of Commons. Both the household officials and the members of ''the great and continual council'' were named in Parliament.

So I say to the distinguished Senator from Tennessee, who presently presides over the Senate, with a degree of aplomb and grace and dignity that is so rare as a day in June, that the Senate routinely debated nominations in closed session in the beginning.

John Tyler was the first Vice President to become President on the death of the incumbent. Early in the Tyler administration, President Tyler broke with the Whig majority in the Senate, which thereafter frustrated his efforts to appoint his own supporters to office. Nothing in the Senate's history has ever, ever matched the spectacle that occurred on March 3, 1843, the last day of the Senate's session, when President Tyler came to the Capitol, just down the hall, to sign legislation and to submit last-minute nominations.

Tyler nominated Caleb Cushing to be Secretary of the Treasury, not once, not twice, but three times that night. Are you listening? Three times. And each time, the Senate rejected Cushing by an even larger margin than before, the votes being, as recorded in the Senate Executive Journal, 19 for to 27 against, then 10 for to 27 against, and on the third time, 2 for Caleb Cushing and 29 against.

Three times President Tyler named Henry A. Wise to be Minister to France—that same evening—and Wise, too, was thrice rejected.

Senator Thomas Hart Benton reported that ''nominations and rejections flew backwards and forwards in a game of shuttlecock.'' In all—in all—the Senate turned down four of President Tyler's Cabinet nominees: in addition to Cushing, David Henshaw as Secretary of the Navy, James M. Porter as Secretary of War, and James S. Green as Secretary of the Treasury. And that ain't all. The Senate turned down four of President Tyler's nominees to the Supreme Court: John C. Spencer, Reuben H. Walworth, Edward King, and John M. Read. It is a record of rejection unmatched—unmatched—by any other President. What a spectacle.

''History,'' wrote the poet Byron, ''with all her volumes vast, hath but one page.'' Byron was saying there that history does repeat itself, so it only needs one page.

We should do well, then, Mr. President, to look backward into the past where we shall find that due diligence by the Senate in fulfilling its ''advice and consent'' responsibility in the appointment process has been, in Hamilton's words, ''an efficacious source of stability'' in the Government of the Republic.

Mr. President, in his Manual of Parliamentary Practice, Thomas Jefferson quoted ''Mr. Onslow, the ablest among the Speakers of the House of Commons,'' as follows. Here is what Mr. Onslow had to say:

It was a maxim he had often heard when he was a young man, from old and experienced Members—

like myself—

that nothing tended more to throw power into the hands of administration, and [into the hands of] those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules—

''the rules''—

of proceeding; that these forms, as instituted by our ancestors—

yours and mine—

operated as a check and control on the actions of the majority, and that they were, in many instances, a shelter and protection to the minority, against the attempts of power.

Now, Thomas Jefferson himself wrote that whether the rules of a legislative body:

. . . be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency and regularity be preserved in a dignified public body.

Therefore, Mr. President, all legislative bodies need rules to follow if they are to transact business in an orderly fashion, and if they are to operate fairly—I have heard that word used a good bit here—efficiently, and expeditiously.

On April 7, 1789, the day after a quorum of Senators had appeared—so you see the Senate just goes back to April 6, 1789—a special committee was created to ''prepare a system of rules for conducting business.'' The committee consisted of Senators Oliver Ellsworth of Connecticut, Richard Henry Lee of Virginia, Caleb Strong of Massachusetts, William Maclay of Pennsylvania, and Richard Bassett of Delaware. All five of these committee members were lawyers. Each had served in his State legislature, the procedures of which were indebted to colonial and English experience. Two had served in the Continental Congress, which was also indebted to colonial and English precedents, and three had participated in the Constitutional Convention, whose members had created the Senate.

Obstructive tactics—we have heard a lot about that lately—in a legislative forum, although not always known as filibusters, are of ancient origin. Plutarch reported that when Caesar returned to Rome after his sojourn in Spain, his arrival happened at the time of the election of consuls. ''He applied to the Senate for permission to stand candidate,'' but Cato—Cato the Younger—strongly opposed his request and ''attempted to prevent his success by gaining time; with which view he spun out the debate till it was too late to conclude anything that day.''

The sun went down. That ended the debate.

Filibusters were also a problem in the British Parliament. In 19th century England, even the members of the Cabinet accepted the tactics of obstruction as an appropriate weapon to defeat House of Commons initiatives that were not acceptable to the government.

Now, in this country, I say to the Presiding Officer and the distinguished Senator from Tennessee and my other colleagues, experience with protracted debate began early. In the first session of the First Congress—that is going back quite a ways. I have only lived one-fourth of all the time that has transpired since that First Congress convened. But in the first session of the First Congress, for example, there was a lengthy discussion regarding the permanent site for the location for the capital. How about that. Fisher Ames, a Member of the House from Massachusetts, complained that ''the minority . . . make every exertion to . . . delay the business.'' That is what we are talking about. That sounds like a filibuster, doesn't it? Senator William Maclay of Pennsylvania complained that ''every endeavor was used to waste time.''

That sounds like a filibuster, doesn't it? Well, long speeches and other obstructionist tactics were more characteristic of the House than of the Senate in the early years. So it started over there. But the House, on February 27, 1811, ''decided . . . that after previous question was decided in the affirmative, the main question should not be debated.'' So there you have it. They moved the previous question. That still is done in the other body. The practice of limiting debate dates back to 1604—my, that is over 400 years; that is 401 years—when Sir Henry Vane first introduced the idea in the British Parliament. Known in parliamentary procedure as the ''previous question,'' it is described in section XXXIV of Jefferson's Manual of Parliamentary Practice, as follows. Here is the way Thomas Jefferson explained the previous question:

When any question is before the House, any Member may move a previous question . . .—

That is the way it is done over in the House, Mr. President: Mr. Speaker, I move the previous question—

whether that question (called the main question) shall now be put.

Mr. Speaker, they say in the House: I move the previous question.

Jefferson went on to say:

If it pass in the affirmative, then the main question to be put immediately, and no man may speak anything further to it, either to add or alter.

That is Thomas Jefferson speaking through his writing. The journals of the Continental Congress record that the previous question was used in 1778. Get that. This is the Continental Congress. When did it first meet? It first

met in 1774, the First Continental Congress. So the journals of the Continental Congress record that the previous question was used in 1778. Section 10 of the rules of the Continental Congress read:

While a question is before the House, no motion shall be received, unless for an amendment, for the previous question, to postpone the consideration of the main question, or to commit to.

The rules adopted by the Senate in April 1789 included a motion for the previous question. According to historian George H. Haynes, when Vice President Aaron Burr delivered his farewell address to the Senate in March 1805—200 years ago—he, Aaron Burr, the Vice President of the United States, ''recommended the discarding of the previous question,'' because in the preceding 4 years during which he had presided over the Senate, it had ''been taken but once, and then upon an amendment.''

So, Mr. President, I say to the Senator from Tennessee, who is presiding, and other Senators, when the rules of the Senate were codified in 1806—that was the first revision of the rules, in 1806—reference to the previous question was omitted. The previous question allowed the Senate to terminate debate: Mr. President, I move the previous question. Or in the House: Mr. Speaker, I move the previous question. If that gained a majority, no further debate. The previous question will be voted on.

In 1806, when the rules of the Senate were first codified, reference to the previous question was omitted. Since then it had only been used 10 times from the years 1789 to 1806, and it has never—it has never, it has never—been restored.

Henry Clay, in 1841, proposed the introduction of the previous question. Here we have Henry Clay proposing that they bring back the previous question. But he abandoned the idea in the face of opposition. Those Senators did not want the previous question. They did not want to terminate debate. They wanted freedom of speech.

When the Oregon bill was being considered in 1846, a unanimous consent agreement was used as a way to limit debate by setting a date for a vote.

When Senator Stephen Douglas proposed permitting the use of the previous question in 1850, the idea encountered substantial opposition and was dropped—dropped, dropped. They did not want the previous question. They did not want to terminate debate. They wanted to be able to speak on and on and on. A filibuster? Well, perhaps.

An effort to reinstitute the previous question on March 19, 1873, failed by a vote of 25 for to 30 against.

The final impetus for a cloture rule came as a result of a 1917 filibuster, one of the most famous in the Senate annals—against an administration measure permitting the arming of American merchant vessels for the duration of the World War. I believe that was 1915.

On February 26, President Wilson—I was born during one of the administrations of Woodrow Wilson—President Wilson appeared before a joint session of Congress to request legislation authorizing the arming of merchant ships. The President announced that the rules of the Senate would have to be revised—now get this—the rules of the Senate would have to be revised before he would call a special session of the entire Congress to deal with the war emergency. And so, Mr. President, the fate of the unlimited debate was sealed.

The principal responsibility for the cloture resolution rested with the new Democratic majority leader, Thomas Martin of Virginia. Under his guidance, a bipartisan committee of the Senate's leaders drew up a proposal providing that a vote—get this—by two-thirds of those present and voting could invoke cloture on a pending measure. Two-thirds of those present and voting.

By a vote of 76 to 3 on March 8, 1917, after only 6 hours of debate, the Senate adopted its first cloture rule. Mr. President, 1917, that was the year in which I was born.

In 1949 now, President Harry S. Truman sought to clear the way for a broad civil rights program, and his first step was to push for liberalization of the cloture rule. His efforts produced a bitter battle at the beginning of the 81st Congress.

The Senate adopted a compromise measure that proved to be less usable than the one it replaced. It required that two-thirds of this entire Senate vote for cloture rather than two-thirds of those present and voting. That was 1949. The new rule differed from the old in that it allowed cloture to operate on any pending business or motion, with the exception of debate on rules change. This meant that future efforts to change the cloture rule would themselves be subject to extended debate without benefit of the cloture provision.

Now we are getting down into my time. At the beginning of the 86th Congress—I came to Congress during the 83rd Congress when Harry Truman was getting close to the end of his tenure—at the beginning of the 86th Congress, Senate majority leader, Lyndon B. Johnson, offered and the Senate adopted by a 72-to-22 rollcall vote, a resolution to amend Senate rule XXII. Approved on January 12, 1959, after 4 days of debate, the resolution permitted two-thirds of the Senators present and voting—going back to the very beginning of the cloture rule—two-thirds of the Senators present and voting to close debate, even on proposals for rules change. It also added to rule XXII:

The rules of the Senate shall continue from one Congress to the next Congress unless they are changed and provided in these rules.

These rules, these rules in this book, the ''Senate Manual.''

On February 28, 1975, I submitted a resolution providing that debate in the Senate be closed by a vote of three-fifths of the Senators duly chosen and sworn, except in the case of a measure or motion to change the rules of the Senate, when a two-thirds vote of Senators present and voting would be required to close debate.

On March 7, 1975, the Senate adopted my substitute providing that three-fifths of all Senators chosen and sworn could invoke cloture. This provision applied to all measures except those amending the rules of the Senate which still required a two-thirds vote of Senators present and voting.

Four years later on February 22, 1979, the Senate agreed to a resolution that I submitted establishing a cap of 100 hours of consideration once cloture had been invoked on a measure.

Under my resolution, each Senator would be entitled to 1 hour of time. Senators could yield their time to the majority or minority floor managers of the bill or to the majority or minority leaders. Except by unanimous consent, none of the designated four Senators could have more than 2 additional hours yielded to him or to her. These Senators in turn could yield their time to other Senators. If all available time expired, a Senator who had not yielded time and who had not yet spoken on the matter on which cloture had been invoked could be recognized for 10 minutes for the sole purpose of debate.

The 1979 resolution made in order only those first-degree amendments submitted by 1 p.m. the day following submission of a cloture motion, with second-degree amendments in order only if submitted in writing 1 hour prior to the beginning of the cloture vote.

The substitute amendment contained the current overall limitation of 30 hours of consideration after cloture has been invoked.

So that brings us up to the present day rules with reference to debate and limitation of debate in the Senate, the current cloture rule. That puts us where we are now, and I thought it would be well just to review briefly the history of unlimited debate in the Senate and then the cloture rule limiting debate—the cloture rule as initially adopted requiring two-thirds of those present and voting; and then in 1949, two-thirds of those elected and sworn; and then again in 1975, two-thirds of those Members present and voting, that is where we are—so that we might have this basis for a better understanding of where we go from here.

I thank you, Mr. President. I thank all Senators, and I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Chair, and I thank the distinguished Senator from West Virginia for his extraordinary analysis and understanding of the Constitution which he has constantly been the keeper of in the Senate.

We are in a remarkable moment of confrontation. This is a great institution, or at least it always has been, and it is looked up to by people all over the world. Caught up as we are now in this moment of partisan ideological division of a raw reach for power, the Congress itself is daily dropping in its regard by the American people. Rather than reaching across the aisle to grapple with the real crises that face our Nation, the Republican leadership keeps moving unilaterally to change the way this institution has worked, and not for the better.

Those of us who have had the privilege of being here for some period of time—I have been here for 22 years; Senator BYRD has been here almost 50; Senator KENNEDY, Senator STEVENS, and others have also served for a significant period of time—but brief as my stay has been, I find myself now I think No. 18 in seniority, which means 82 Senators have come and gone during the time I have been here. I have had a chance to know many of them going back to the time of Barry Goldwater, John Stennis, Russell Long, and others. Never in that whole period of time I have served have I ever seen this institution behaving the way it does today.

Colleagues who came to do the same good as colleagues on the other side of the aisle, locked out of conference committees, hearings that do not take place when they ought to; oversight that does not occur as it used to. This institution is being damaged daily by the partisanship, the bitter ideological divide that is preventing good people on both sides of the aisle from doing good business for the American people; from finding real solutions to the real problems of real concern to average families all across our country, who cannot pay their health care bills, who are losing jobs abroad, who worry about the twin deficits of the budget of our country and of our trade; who see extraordinary threats to community as kids do not get the education they ought to. All this time we have been spending weeks, if not months, caught up discussing a nuclear option, discussing a few judges out of the two hundred, 208 or so, who have been nominated and approved by this President.

The Senate is now watching this struggle take place, countless hours consumed by an effort to change the rules by breaking the rules. If my colleagues want to change the rules, use the rules to change the rules. Do not subvert the system. Do not play a cute parliamentary game that has been untouched over 200 years.

This is a stunning moment. The problem is that words spoken in this Chamber do not even fully convey the importance of this moment. This is, in fact, one of those times the Founding Fathers and countless other statesmen of history have warned us against.

Henry Clay said: The arts of power and its minions are the same in all countries and in all ages. It marks its victim, denounces it and excites the public odium and the public hatred to conceal its own abuses and encroachments.

James Madison said: Where the whole power of one department is exercised by the same hands which possess the whole power of another department, the fundamental principles of a free constitution are subverted. . . . The accumulation of all powers, legislative, executive and judiciary, in the same hands, whether of one, a few or many, and whether hereditary, self-appointed or elective, may justly be pronounced the very definition of tyranny.

What we are going to see if this happens is the judiciary of the United States entirely put into the hands of the Presidency, period. The advice and consent will be wiped out, barring displays of courage that we have not seen recently, because people will come, as they did in our committee most recently, to say, well, we just had an election and the President won and the President has the right to his appointments, that is it, end of issue. Gone, the divisions; gone, the test; gone, the judgment we were supposed to apply as a separate and coequal branch of Government.

That is what the Founding Fathers wrote. They did not give the President the ability to have whoever that President wants. That is what is written into the Constitution, that every single one of us went to the well of this body and raised our hands and swore to uphold.

We did not swear to uphold the majority leader. We did not swear to uphold the President. We did not swear to uphold our party. We swore to uphold the Constitution of the United States, and that is our duty.

Lord Acton said it maybe best: All power corrupts. Absolute power corrupts absolutely.

Thomas Jefferson said: I hope our wisdom will grow with our power and teach us that the less we use our power the greater it will be.

If my colleagues want to use the power of ending a filibuster, just have the filibuster for week after week and let people stand up and make their arguments. If the arguments have no currency, believe me, between the press, public opinion, the bloggers, and C–SPAN, this country will rise up and they will get their 60 votes if they deserve them. That is an up-or-down vote of its own kind.

If it were compelling enough, as it was with the Civil Rights Act, or compelling enough as it has been in other great confrontations in this body, we have always found our way to make it happen. We have always done it without the rules. We are a Nation that has listened to some remarkable men and women in remarkable debates about how we as a Nation are different in balancing power and protecting the people and the institutions that we set up to protect the people. We are not here as an institution to protect an ideology. We are not here as an institution to protect a party. We are here to protect collectively the Government of the United States of America that is made up of those brilliant words that were fought over so diligently and remarkably in Philadelphia and which have served us so well all of these years.

Now all of a sudden in 2005, feeling the flush of victory in an election that was close, controlling two branches of Government, elected officials, people who serve at the grace of that Constitution for a brief period of time, at the sufferance of the people who vote for us, those people are choosing to serve the moment, not to serve history, not to serve precedent, not to serve common sense, not to serve even the real interests of the American people, but to serve a narrowly defined, elected, official, leadership-determined, ideological purpose.

I believe the real interests of Americans are best served by remembering that the greatest strength and the greatest virtue of our democracy is not that it gives power to the majority, which is easy to exercise, easy to understand, easy to abuse; the great virtue of the American system of Government and of our democracy is the protection it provides to the minority. That is what is special about America. That is what makes us different from everybody else. That is what lives are being lost for, to tell people in Iraq and Afghanistan, this is what you ought to embrace—the full measure of democracy, not some limited tricky little measure where, in the flush of victory, you change the rules.

What would we say about this if it was another country that we had helped to be the country they are, embracing our democracy, but they started to play those kinds of games and there was suddenly an abuse of rules that had been set up that everybody understood were there to make the democracy work effectively?

It is precisely the protection of the minority that makes our democracy so respected and so awesome to people all over this planet.

This is a dangerous time for our democracy. What is at stake here is something far greater than the confirmation of a few judges. Let there be no doubt that line was drawn clearly here this morning because the deputy leader offered to have four judges confirmed. We could have confirmed four judges right here, today, this morning.

No, no, no. This is a division. This is a moment of confrontation being sought by the leadership on the other side of the aisle. What is at stake is something far greater than any of the individual judges. It is defined by the refusal to accept the offer to do those judges today. We could have gotten the President's percentage up from 95 to whatever, 98 percent. But, no, we do not want that. That will change the focus.

No matter how much time is spent on the life story of Priscilla Owen, we all

know the choice of this particular judgeship and of just staying on this judgeship and not trying to have other judgeships represents, in fact, a choice. It is a smokescreen for what this fight is really all about. It is not about these few judges. We could have confirmed those judges. But the Republican leadership is fundamentally determined to deny the minority the right to hold the Executive accountable for such judgments as we might make about the lifetime appointment of those judges.

I heard both sides out here. Some Members of our side did call for up-or-down votes when that was the argument that best served them. But, guess what, when they didn't get it, they didn't call for a change in the rules, and they did not try to break the rules to change the rules. They used their best argument, but they respected the institution.

That is not what is happening today. So we can forget about who said what when. The real fight is about the Senate. The real fight is about the Constitution. The real fight is about who we are and what kind of country we are going to be and how we behave and what kind of example we set to young kids in school today who read the history books and dream someday of being a Senator and perhaps joining the world's greatest deliberative body.

This is about George Bush and Karl Rove and the Republican leadership and their quest for absolute control over who goes to the Supreme Court and to the judgeships across this country. This is about carrying, beyond this branch of Government, power into another branch of Government that is supposed to be separate. This is about the gratification of immediate ideological goals and the pursuit of power, regardless of the long-term consequences to the Senate, the Congress, or the Constitution of the country. To get what they want, the leadership has acquiesced to outside forces. Not even the precedents and history and quality of this institution are guiding them. It is an outside hand.

As John Danforth, with whom many of us had the privilege of serving here, a greatly respected former Republican Senator—he was George Bush's choice as a special envoy to Darfur. He was George Bush's choice to go to the United Nations. He is, above all, as all of us know, a man of enormous faith, a respected minister, and a leader in his church. Here is what he wrote a few weeks ago:

> The problem is not with people or churches that are politically active. It is with a party that has gone so far in adopting a sectarian agenda that it has become the political extension of a religious movement.

So spoke Senator John Danforth, Republican.

Yet, despite Senator Danforth's warning, most of my colleagues stay right on script in this fight for history, this fight for principle, and this fight for rights. On script, they allow our cherished principles to be abused and glossed over as the debate sort of develops or drops down into a competition of hollow sound bites. But script and sound bite are not what should dictate what happens here, not in the Senate. Conscience and principle ought to dictate what happens here. There have to be Senators prepared to stand up and do their duty as U.S. Senators, not Senators of their party.

My distinguished colleague, Senator VOINOVICH, recently showed courage in the Foreign Relations Committee when he suddenly stopped the proceedings of the committee and he said: I am not comfortable with what is happening here. My conscience tells me we ought to stop and take a better look.

Guess what happened. He was vilified on talk radio and in certain partisan circles for having gone off script.

Senator CHAFEE of Rhode Island, 4 years here, stands up and says: Wow, that is the first time in 4 years I have ever seen anybody do that.

What? The first time in 4 years a Senator saw another Senator stop and think for himself and exercise conscience and go off script? What kind of statement is that about what has happened here? It is not controversial, my friends. It is a sad statement about the Senate, and it underscores what is happening here now.

Independence and conscience and principle are really what is at stake here, the independence of the Senate, the independence of the judiciary from an administration that is just hell-bent for leather determined to get its way. Heavens knows what leverage will be exerted in these next hours as we see so much on the table, with military bases closing and other issues—who knows? Independence of the Senate, a special institution in our Government, a place where things purposefully slow down, where they find their balance—that is what the Senate was created for.

It is surprising and disturbing that members of the Republican leadership know what is at stake, but they have actually worked with the Republican administration to spreads things that aren't true. I don't know what happened to truth around here. I don't know what happened to truth in the discussion of great issues before this country.

But the truth is, in the end, none of the constitutional issues that have been put forward—and today's Republican leadership—none of them stand up. They do not stand scrutiny. They are hollow, tortured, poll-tested statements. The whole argument about the Constitution and up-or-down votes or ''unprecedented''—the word ''unprecedented'' has been used. They sound good, but they are not true, and we know it. Yet Senators continue to fall in line, turning out the script, turning out the phases that have to be repeated. It is not a true representation of the Constitution, of history, or the rights of Senators.

Personally, I believe there would be a lot more outrage in the Nation and in the media if the value of truth had not been so diminished over the last years. We have a budget that comes trillions of dollars short of counting every dollar we plan to spend, but, oh no, there is no accountability. We have a budget that doesn't even count the interest on the debt. Find me an accountant in a business in America who doesn't put the interest on the debt that they owe in the accounting, and they would be fired. We do not do it. No accountability.

We have had a Medicare actuary who was forced at risk of losing his job to lie about what the costs would be of a prescription drug bill and lie to the Congress. No accountability. We have had falsified numbers in Iraq, on everything from the cost of the war to the number of troops that have been trained to the slam dunk on intelligence—no accountability. We have an administration that continues to want to fund fake newscasts paid for by the American people, without disclaimer, and mislead people across America.

In fact, the administration's willingness to consistently abandon the truth I think has done great damage to the American people's willingness to believe anything any of us say. They are less willing to listen. They are less willing to trust or take anything said seriously.

Now we find ourselves in a struggle between a great political tradition in the United States that seeks to find the common ground, do the common good, and we have a new ethic on any given issue, where any means justifies the ends of victory no matter what. It is a new view that says, if you don't like the facts, just change them. If you can't win by playing by the rules, just rewrite them. Witness what happened with TOM DELAY. The new view says if you can't win a debate on the strength of your arguments, then go ahead and demonize your opponents regardless of whether it is true. The new view says it is okay to ignore the overwhelming public interest as long as you can get away with it.

This time the Republican leadership has gone the farthest to get away with it, hoping to convince Americans that by breaking the Senate rules, they are actually acting to defend the Constitution, honor the words of our Founding Fathers, and avert a judicial crisis.

This debate is not fueled by an effort to protect the Constitution. It is fueled by ideology. It is not fueled by a shortage of judges on the bench because, as the ranking member of the Judiciary Committee has made clear, we have the best record of appointing them and the lowest vacancies in years.

The facts have been repeatedly cleared up, again and again, and repeatedly they are brushed aside with the old adage that if you throw enough mud and you repeat something that is not true enough, enough people may come to believe it. Over 95 percent of all judges already approved. I have been here since 1985 and I have probably voted for a thousand judges. I

have not counted them all. For Ronald Reagan, for George Herbert Walker Bush, for President George Bush. What have we got? Ten who have not been confirmed?

The Bush administration and their allies in Congress hope to get away with this by selling words to the public on a ''team'' the public would never buy if there was a referee who put real facts in front of the American people. Unfortunately, words with great meaning—Constitution, Founding Fathers, history, precedent—all of these are being twisted and cheated of their full meaning and of their full import in the process.

In the end, the American people are being underestimated by this administration. They may work their will here; I don't know yet. We do not know. Certainly they have a lot of cards to play. But in the end, Americans value the Constitution, and over time this will be felt. In the end, Americans understand that the strength of our democracy is best judged by the enduring strength of our minority and its ability to be heard. And Americans cherish the ability of the minority to be heard.

When Americans first heard the term ''nuclear option,'' they kind of recoiled—appropriately. They were confident that dismantling the filibuster and silencing the minority would have as catastrophic an effect on our democracy as a nuclear blast would on our security. But the majority's action was not to back off and to say, okay, we will play by the rules. The majority's reaction was to change the slogan. So in an act of transparent hypocrisy, the minority changed the slogan from ''nuclear option'' to ''constitutional option.'' George Orwell would be pleased. They embarked on a series of hollow arguments based on mythical constitutional provisions confident that if you just say it, somebody will believe it.

You can change the slogan, but you cannot change the fact that diminishing the rights of the minority diminishes the spirit and the substance of our Constitution and the foundation of our Government. Argument after argument put forward by the Bush Republican leadership is just plain false. False. I have heard it argued that our Constitution mandates specific protocol of voting for judges. No. They have used their new catchphrase, up-or-down votes, hundreds of times in recent days. But those words do not appear once in our Constitution. They are not even subliminally in the Constitution in the advice and consent and separateness of power given to the Senate and the right of the Senate to make its own rules.

No one should be fooled. Those phrases do not mean constitutional. They do not mean democratic. They do not mean fair. They are phrases that are code for dissent-proof, minority-proof, and filibuster-proof. There is nothing in our Constitution or our history to suggest that the nominee of any President is so special as to be excused from the scrutiny of the minority or granted immunity from the tools of democracy that protect that minority.

I didn't win, but I can guarantee this: Had I been President, I would not have contemplated supporting or sending a request to change what I have viewed as something of value in the entire time I have been here in the Senate. Never would have occurred to me. It would have occurred to me to send people up here who could win the support of people on both sides. It would have occurred to me to bring the members of the Judiciary Committee together and sit them down and work together to come to a common understanding of what sort of standard we ought to apply and let the American people share that standard.

There is nothing in our Constitution or in history to suggest the President ought to be granted immunity from the tools of democracy. And that is what will happen.

My colleagues are well aware that the power of advice and consent is granted to the Senate and the Constitution says absolutely nothing about how the Senate will proceed to provide advice and consent. And the words advice and consent are there in their duality because advice is one thing and consent is another. You can withhold your consent or you can give your consent. You can say yes, or you can say nothing if you do not vote. And if you do not vote, you have withheld your consent.

It didn't take long before the new Congress exercised its constitutional powers in 1795. Senators who were friends and colleagues of the Founders themselves, who surely knew their intent, turned around and defeated George Washington's nomination of George Rutledge to be the Chief Justice of the Supreme Court. In 1968, Republican Senator Robert Griffin captured the spirit of that event when he said:

> That action in 1795 said to the President then in office and to future presidents, don't expect the Senate to be a rubber stamp. We have an independent and coequal responsibility in the appointing process and we intend to exercise that responsibility as those who drafted the Constitution so clearly intended.

The Constitution did not mandate a rubberstamp for George Washington and the Constitution doesn't mandate a rubberstamp for George Bush today.

In 1795, the rejection of Washington's nominee was heralded as the Constitution working, not failing. There is no doubt that an active, coequal partnership was intended. That resounding rejection of George Washington, our revolutionary leader, helped to seal the death of the monarchy in this country.

The genius of empowering the Senate and the minority was that by limiting the executive, the Senate legitimized the executive. So when I hear my colleagues come to the Senate arguing that the Constitution mandates the will of the majority always trumps the minority, I don't hear the wisdom of our Founding Fathers. I don't see or hear a respect for what happened in 1795. I don't hear the same blind activism that characterizes the judges they intend to enforce on the Federal bench. The actions of some Senators, in fact, today come closer to rewriting the Constitution than defending it.

Another argument we have heard is that the filibuster itself is unconstitutional. That has been made. That argument is deeply flawed. The Constitution in Article I, section 5 granted each house the power to ''determine the rules of its proceedings.'' That is the Constitution of the United States.

Every Senator went down there, raised his or her hand, and swore to defend the Constitution. And the Constitution says we have the power to determine our rules and we have a rule by which we determine the rules, and the current rule says you have to have a supermajority to change the rules. But, no, in the flush of victory, in a moment of ideological excess, people are going to come in and change the rule by breaking the rule of the Senate that the Constitution itself enshrines. Shame. That is a disgrace to the oath and a disgrace to the history and a disgrace to what this institution stands for and to the quality of our democracy that we export at the lives of young Americans abroad. It is wrong, fundamentally wrong.

Over the past 200 years, our predecessors in the Senate have taken the role of ''consent'' very seriously. They have created time-tested rules to assure the rights of the minorities and to balance the power of government. With a hold, a so-called hold, a single Senator can delay a Presidential nominee. A single committee chairman can block a nomination by simply refusing to hold hearings.

I saw Senator Helms do that any number of times. I tried to get a hearing. We tried to get the possibility of a Governor of the United States of America, the Governor of Massachusetts, Bill Weld, nominated to be the Ambassador to go to Mexico. Senator Helms: no hearing. Wouldn't hear of it. It could not happen. Nomination killed.

What is this game that is being played back and forth about who said what, when? We all know how this place has worked all these years. These rules were not created by the Democratic Party when George Bush was elected President. The filibuster was used as early as 1790 by Senators from Virginia and South Carolina who filibustered against a bill to locate the first Congress in Philadelphia. That was a filibuster of one because in 1790, as Senator BYRD has pointed out, you needed unanimous consent to end the debate. They did change that rule, but they changed that rule by using the rules of the Senate, not by breaking them.

Think about it. Those legislators and friends and even the Founders themselves permitted a filibuster of one. Knowing that, today's activist arguments buckle under the weight of history. The unfortunate truth is that some Senators have now fashioned themselves as activist legal scholars using a false reading of the Constitution to paint their opponents as obstructionists while pursuing their political agenda at the expense of our democracy.

I think some of my colleagues forget that the Senate was designed specifically to be the moderating check on a President. And guess what. We have done unbelievably well as a nation these 200 years. We are the envy of people all across this planet. There is not one of us whose heart does not fill with pride, who is not astounded at what we can do and have done, and what we can achieve in America, and the stories of individual Senators in this Chamber who have risen from adverse circumstances, and nothing, to be able to represent people in their States. It is a stunning story. It is a story based on that respect for the law and based on the mutual respect that has always guided this great institution. I think some of my colleagues have lost track of that.

My colleagues also forget, as they demonize the filibuster, it has been a force for the good. Farmers don't forget that. There are a lot of farmers in the Midwest in our country. They don't forget when Senators from rural States used the filibuster to force Congress to respond to a crisis that left thousands of farmers on the brink of bankruptcy in 1985. The big oil companies don't forget it. That don't forget when Senators used the filibuster to defeat massive tax giveaways that they were lobbying for in 1981. And I don't forget it, when, 10 years ago, I came to the floor and filibustered to prevent a bill that would have gutted public health and safety and consumer and environmental protections. That bill never passed, and we know the country is better for it.

Some Senators come to the floor with a practical argument about our courts. They claim that because we have not rubberstamped each and every one of George Bush's nominees, the Nation faces a crisis because of a shortage of judges on the bench. It is not true. How can you keep coming to the floor of the Senate saying things that are just plain not true?

Over 95 percent of the President's nominees have been confirmed. Our courts today have the lowest vacancy rate they have had in years. Enough of that argument.

What is threatened is a delicately balanced system that for 214 years successfully prevented the Executive from usurping power that was granted in good faith by the American people. And that threat manifests itself in this nuclear option that threatens the character, the core of this institution.

The integrity of this Senate is threatened when the majority attempts to change the rules by breaking the rules. The balance of power is threatened when the power of advice and consent is gutted. It will be gone. Whatever nominees they want will be confirmed, unless you happen to find a few people who will stand up to the pressure exerted on their States' need or their reelection need or the other needs that the Founding Fathers wanted to protect Senators against.

Our democracy is threatened when we set the dangerous precedent that minority rights will be silenced at the convenience of the majority. I believe our courts and the justice this rule is meant to deliver are threatened, in the end, by some of these judges who have been nominated.

As I said, that is not what this is fundamentally, in the end, about. It is about getting everything you want when you want it.

I will wrap up in a moment, Mr. President.

Some of my colleagues have argued that Democrats filibuster these judges because we simply dislike them or disagree on ideology or policy. Well, there may be some disagreement on things they have said or the way they have approached their courts. We saw what Attorney General Gonzales has said about Priscilla Owen, that her dissent in In re Jane Doe was an ''unconscionable act of judicial activism.'' But the point is, we have confirmed countless judges with whom we disagree on countless issues. If we have confirmed over 200 judges of the President of the United States, you know we do not agree with them on many of the issues that they brought to the bench, but they brought a fundamental fairness or they brought a record that we did not believe ought to be disputed.

I think we have shown our good faith on the approach to the confirmation of judges. We have confirmed countless judges because we believed they were impartial and responsible arbiters of the law. It is an activist judge, it is a judge with a particular—many of the arguments have been made; I am not going to go through them now—but those arguments have been eloquently made with specificity as to these few judges. It is judges who want to rewrite our laws from the bench whom we believe are unqualified for a lifetime appointment. And we stand against them, Mr. President, not as a threat to the Constitution, but in defense of the Constitution.

We have also been accused of unprecedented acts with respect to these nominations. Well, I am not going to go back into all that history. A lot of my colleagues have talked about it in the last days. But you just cannot come out here with a straight face, on either side—both sides have engaged in delaying some nominees—many of them were not even allowed out of the committee when President Clinton was in. Waited years; never got out. That does not make it all right, but it is the way it works as we fight this process of finding people who meet the consensus of the Senate.

Did you hear the minority then hide behind a mythical constitutional value? No. Did you hear the minority stand up and assert a constitutional violation or the rules of the Senate ought to be changed? No. The majority leader himself has voted to filibuster a nominee. It does not matter whether it is 1, 2, or 10 filibusters, a filibuster is a filibuster.

President Johnson's nominee to be Chief Justice of the Supreme Court, Abe Fortas, was defeated with a filibuster.

Tennessee Republican Howard Baker articulated the minority's position saying:

> The majority is not always right all of the time. And it is clear and predictable that the people of America, in their compassionate wisdom, require the protection of the rights of the minority as well as the implementation of the will of the majority.

Throughout our history, Presidents and majorities have always had to govern a nation where minority rights are protected. Until this day, Presidents of the majority have respected that tradition. They were humbled by it. They were inspired by it, by the lessons of history that colleagues seem to have forgotten today.

In 1937, President Roosevelt attempted to court pack and assert his influence. His own party said no. Thomas Jefferson once attempted to impeach a Supreme Court Justice who disagreed with his political agenda. His own party said no.

When my colleagues complain of lack of precedent, remember those precedents. They were fair, and they were just. They respected the Constitution and they defended the judiciary. Our predecessors stood up to their own party leaders because they valued the real strength of our democracy more than the short-term success of a political agenda of the moment. And the question for all of us here is: Are we going to live up to that test?

Recent predecessors of Senate Republicans have repeatedly urged respect for this—their own party Members, Members of the Republican Party, people of extraordinary respect and even reverence. Former Republican Majority Leader Howard Baker said, destroying the right to the filibuster:

> would topple one of the pillars of American democracy, the protection of minority rights from majority rule.

Former Senator Chuck Mathias said:

> The Senate is not a parliamentary speedway, nor should it be.

Former Republican Senator Bill Armstrong said:

> Having served in the majority and in the minority, I know it's worthwhile to have the minority empowered. As a conservative, I think there is a value to having a constraint on the majority.

My colleagues should defend their judges, but do it without tearing down

the Constitution and our Founding Fathers, or destroying the rules and character of this great institution. Defend your judges without ceding dangerous and corruptive levels of power to the executive branch of Government. Defend your judges without erasing 214 years of wisdom and sacrifice that raised this Nation from tyranny and chaos and spread freedom across the globe. Our Founding Fathers would shudder to see how easily forces from outside of the mainstream now seem to effortlessly push people toward conduct the American people don't want for their elected leaders, abusing power, inserting the Government into our private lives, injecting religion into debates on public policy, jumping through hoops to ingratiate themselves to their party base, while step by step and day by day real problems that keep American families up at night fall by the wayside in Washington.

Congress and our democracy itself are being tested this week and next and will be tested in this vote. We each have to ask ourselves individually, as a matter of conscience, what are we prepared to do? I have attended the Senate prayer breakfast with colleagues here. I know this is a place of great faith and a place of real concern. I ask my colleagues to look into their souls and ask themselves, is this the right thing to be doing for the long-term interests of our Nation?

For those in this Chamber who have reservations about the choices their leadership has made and worry about the possible repercussions on our Constitution and democracy, stop over the weekend and look at history and find the courage to do what is right. History has always remembered and found a place for those who are courageous, and it will remember the courageous few who live up to their responsibility now and speak truth to power when the Senate is tested, so that power doesn't go unchecked.

The Senate and the country need Senators of courage who are prepared to make their mark on history by standing with past profiles in courage and defending not party, not partisanship, but defending principle, defending the Constitution, and defending democracy itself.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, when I first came to the Senate, our Nation was engaged in the Cold War with the Soviet Union. But now, 22 years later, this Senate is experiencing its own cold war. It is a cold war across the aisle that separates the two parties, and it has escalated with the threat of this nuclear option.

As the name suggests, the result of this threat is nuclear, but in many ways it is also a timebomb. It is a timebomb because, while the action will be visible now, it will do irreparable damage to the future of this country.

Its potential effects on the operations of the United States are well known. But here I want to address my comments to the American people because they are going to pay the price for the change if it takes place here. The majority leader insists on breaking the rules in order to give several people, some of whom deserve far greater review, lifetime appointments as high-ranking Federal judges. They could be on the bench for 30 or 40 years, and they will make decisions about your lives, your families, your rights, and the future of your children. They will make decisions about our lives, such as: Will clean air rules be enforced against polluters. I hope so. I would like to know my grandchildren can breathe the air and not be harmed by it. I have one grandchild who is asthmatic. My daughter, when he goes to play a game or engage in a sport, always checks to see where the nearest emergency clinic is.

So do we want to leave our kids with air that is polluted, with drinking water that is contaminated? Will we have health care? Will we still have strong constitutional rights? That is what this is about. We got lost in how long the filibuster rule has been in effect and how devastating it will be on the process. But it goes much deeper than that. These are critical questions, and these are the judges who will be answering those questions. They might even one day be asked to help elect a President.

When I was a soldier 60 years ago and we dropped the earliest version of the nuclear bomb, called the atom bomb, we celebrated. We knew we could save thousands of Americans from dying in the fight to vanquish our then enemy, Japan.

With this nuclear option, the majority leader is threatening to annihilate over 200 years of American tradition in the Senate by getting rid of the right that challenges decisions made by a slim majority over a minority of over 140 million people's representatives here in the Senate.

Extended debate, or filibuster, is an American tradition that goes back to the earliest days of the Senate. While the written rules establishing the Senate filibuster were not adopted until 1806, the practice existed even in the first Congress. Historical records indicate that in 1790, Senators from Virginia and South Carolina engaged in a filibuster, and it has continued since then.

The first well-documented filibuster was conducted in 1825 by Senator John Randolph of Virginia. For several days, Senator Randolph filibustered President John Quincy Adams' economic agenda. That was in 1825. During the 19th century, there wasn't even an option of a cloture to end the filibuster. It continued as long as people had the breath and stamina to continue. There was no way to stop determined Senators from engaging in an unlimited debate. Then, in 1917, the cloture rule was adopted, which established a procedure to end debate only upon a vote of a supermajority. Through all of these years, through every crisis, the American tradition of the filibuster has endured. It endured through the War of 1812, the Civil War, Reconstruction, two world wars, the Great Depression, the civil rights movement. Yet because of a few of President Bush's judicial nominees, we are being asked to throw out the filibuster safeguards of the huge minority. It makes no sense.

We have heard claims that it is unprecedented to mount a filibuster on a judicial nominee. It can be said, but it is wrong, and the evidence is on the Senate's own Web site.

I quote from a statement made earlier by the senior Senator from Missouri. Mr. BOND said:

> Mr. President, I think the facts are clear. You have heard this many times. Almost everything has been said but not everybody has said it, so I want to go over some of the facts that I think are very, very important. For 214 years, judicial nominations have come to the Senate floor and have been considered without filibuster.

I ask unanimous consent that a table that shows there were 14 judges whose nominations were filibustered since 1968 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 3.—NOMINATIONS SUBJECTED TO CLOTURE ATTEMPTS, 1968–2002

[Executive branch nominations in roman; Judicial nominations in italic]

Congress and year	Nominee	Position	Cloture motions filed	Outcome of cloture attempt	Disposition of nomination
(1) *90th, 1968*	*Abe Fortas*	*Chief Justice*	*1*	*rejected*	*withdrawn*
(2) *92nd, 1971*	*William H. Rehnquist*	*Associate Justice*	*2*	*rejected*	*confirmed*
96th, 1980	William A. Lubbers	General Counsel, National Labor Relations Board.	3	invoked	confirmed
96th, 1980	Don Zimmerman	Member, National Labor Relations Board	3	invoked	confirmed
(3) *96th 1980*	*Stephen G. Breyer*	*Circuit Judge*	*2*	*invoked*	*confirmed*
(4) *98th 1984*	*J. Harvie Wilkinson*	*Circuit Judge*	*2*	*invoked*	*confirmed*
(5) *99th, 1986*	*Sidney A. Fitzwater*	*District Judge*	*1*	*invoked*	*confirmed*
99th, 1986	*Daniel A. Manion*	*Circuit Judge*	*1*	*withdrawn*	*confirmed*
(6) *99th, 1986*	*William H. Rehnquist*	*Chief Justice*	*1*	*invoked*	*confirmed*
100th, 1987	Melissa Wells	Ambassador	1	invoked	confirmed
100th, 1987	C. William Verity	Secretary of Commerce	1	invoked	confirmed

TABLE 3.—NOMINATIONS SUBJECTED TO CLOTURE ATTEMPTS, 1968–2002—Continued

[Executive branch nominations in roman; Judicial nominations in italic]

Congress and year	Nominee	Position	Cloture motions filed	Outcome of cloture attempt	Disposition of nomination
(7) *102nd, 1992*	*Edward Earl Carnes, Jr.*	*Circuit Judge*	*1*	*invoked*	*confirmed*
103rd, 1993	Walter Dellinger	Assistant Attorney General	2	rejected	confirmed
103rd, 1993	five nominations [1]	State Department	2	rejected	confirmed
103rd, 1993	Janet Napolitano	U.S. Attorney	1	invoked	confirmed
103rd, 1994	M. Larry Lawrence	Ambassador	1	fell [2]	confirmed
103rd, 1994	*Rosemary Barkett*	*Circuit Judge*	*1*	*withdrawn*	*confirmed*
103rd, 1994	Sam Brown	Ambassador	3	rejected	returned to president
103rd, 1994	Derek Shearer	Ambassador	2	invoked	confirmed
103rd, 1994	Ricki Tigert	Board Member and Chair, Federal Deposit Insurance Corporation [3].	2	invoked	confirmed
(8) *103rd, 1994*	*H. Lee Sarokin*	*Circuit Judge*	*1*	*invoked*	*confirmed*
103rd, 1994	Buster Glosson	Air Force Lieutenant General (retired)	1	withdrawn	confirmed
103rd, 1994	Claude Bolton, Jr.	Air Force Brigadier General	1	vitiated [3]	confirmed
103rd, 1994	Edward P. Barry, Jr.	Air Force Lieutenant General (retired)	1	vitiated [3]	confirmed
104th, 1995	Henry Foster	Surgeon General	2	rejected	no final vote
105th, 1997	Joel I. Klein	Assistant Attorney General	1	invoked	confirmed
105th, 1998	David Satcher	Surgeon General	1	invoked	confirmed
(9) *106th, 1999*	*Brian Theadore Stewart*	District Judge	*1*	*rejected*	*confirmed*
(10) *106th, 2000*	*Marsha L. Berzon*	*Circuit Judge*	*1*	*invoked*	*confirmed*
(11) *106th, 2000*	*Richard A. Paez*	*Circuit Judge*	*1*	*invoked*	*confirmed*
(12) *107th, 2002*	*Lavenski R. Smith*	*Circuit Judge*	*1*	*invoked*	*confirmed*
(13) *107th, 2002*	*Richard R. Clifton*	*Circuit Judge*	*1*	*invoked*	*confirmed*
107th, 2002	Richard H. Carmona	Surgeon General	1	invoked	confirmed
(14) *107th, 2002*	*Julia Smith Gibbons*	*Circuit Judge*	*1*	*invoked*	*confirmed*
107th, 2002	*Dennis W. Shedd*	*Circuit Judge*	*1*	*vitiated* [3]	*confirmed*

[1] These five nominations to various positions in the State Department received consideration and cloture action concurrently, and are counted as one case in the table.
[2] Cloture motion became moot and received no action.
[3] Tigert was nominated simultaneously for these two positions, and cloture action took place on each nomination in turn; the table counts these events as one case.
[4] Senate unanimously consented to treat the cloture motion as having no effect.

Sources: Compilations by CRS and by the Senate Library; Legislative Information System of the U.S. Congress; U.S. Congress, Senate, Committee on Rules and Administration, *Senate Cloture Rule*, committee print 99–95, 99th Cong., 1st sess. (Washington: GPO, 1985), pp. 44–70, 78–85; *Congressional Record* (Daily Digest); and *Congressional Quarterly Almanac* for 1986, 1987, 1992, 1995, 1999.

Mr. LAUTENBERG. Mr. President, the Senate Web site points to one incident from 1964 to the present time. October 1, 1968: ''Filibuster Derails Supreme Court Appointment.'' Why don't our colleagues on the other side take their heads out of the sand, open their eyes, read the record, and tell the public the truth?

In 1968, Abe Fortas, Supreme Court Justice, was filibustered. The Senate failed to invoke cloture on Fortas. There were only 45 votes for cloture. Some say this is proof that a majority of the Senators did not support Fortas. But President Johnson thought otherwise, noting that 12 Senators were absent for the cloture vote. And here from 1968 is a page 1, first-page headline in the Washington Post. It says: ''Filibuster Derails Supreme Court Appointment.''

A full-dress Republican-led filibuster broke out in the Senate yesterday against the motion to call up the nomination of Justice Abe Fortas for Chief Justice.

The public ought to know what is being said. Unfortunately, in the urgency to get this done, they are not being accurate in the things that are said by the Republican majority.

So in 1968—note this, people across the country—on a nomination to be the most influential judge in the country, there was a filibuster. I am not a lawyer, but it seems to me that those who say this has not happened before are guilty of factual negligence. The right to filibuster is fundamental to the Senate because the Senate was created by our Constitution to protect the rights of the minority.

Just this weekend, one of the most distinguished Members of the Senate, our colleague from Arizona, Senator MCCAIN, explained it very well. Senator MCCAIN said:

The Senate was designed to protect the minority. That is why Wyoming has two votes, and that's why California has two votes. That's why Rhode Island—

Another small State—

had two votes among the original 13, and New York and Massachusetts and Virginia had two votes.

The modern Senate reflects the same types of disparities in population as the original Senate. My home State, for instance, New Jersey, has a population that is greater than Alaska, Wyoming, Kansas, North Dakota, South Dakota, and Mississippi combined. But New Jersey only gets two votes in this body, and each one of those States I mentioned also gets two votes. So it is not surprising that when you do the math on the current Senate, you find that the majority is actually in the minority, and the minority is the majority.

Here is what I mean very simply put. The Republican caucus with 55 Senators and with each Senator getting half of the vote in that State represents 144 million people. The Democratic caucus with 45 Senators represents 148 million people. The first one, 144 million; the second one, 148 million—that does not look like much of a minority to me. That is what we are looking at.

Mr. President, what you find is the minority in this body, the Democratic caucus, represents more than the majority, and that is exactly what the Founding Fathers wanted to protect—minority rights in the Senate—because a minority of Senators may actually represent a majority of the people. So it is corrected by a process we have here. The Democratic caucus on this side of the aisle represents many more Americans than the Republican side. That is why we have a filibuster rule. That is why we generally operate by unanimous consent.

The right to filibuster is not just some obscure rule in the Senate. It is part of our American heritage, and it has been celebrated by our culture and our folklore. As many Americans know, the filibuster was immortalized in the film ''Mr. Smith Goes to Washington.'' Here we see a picture of Jimmy Stewart as he played Senator Smith. He used the filibuster to protect the interests of his constituents back home. This image shows Senator Smith in the midst of his filibuster.

From some of the things we have heard from the majority leader, you might think Mr. Smith was the bad guy in that film. No, Mr. Smith, as a filibustering Senator, is not only the good guy, but he is the hero of that film. That film is a celebration of our American democracy. It is a celebration of this Senate, the world's greatest deliberative body. But if the majority leader is successful in ending the filibuster, in ending the representation that the huge minority deserves, we will move from the world's greatest deliberative body to a rubberstamp factory.

The Constitution gives us an active role in the nomination process. The Senate is not a mere formality under the Constitution. The Founding Fathers intended the Senate to be a check on the President's power. We hear our colleagues on the other side pleading for a majority vote; let the Senate act as it should.

The Senate is responsible for the quality of people we put on the courts, and if there is a challenge, so be it. Let the majority party make the case, convince us that these people are not what we think they are in terms of their activist views. Is it an inconvenience to the President to contend with the Senate? Perhaps. But direct your complaints to Thomas Jefferson, James Madison, and our Founding Fathers. You will find they had their hands full, and they knew how to deal with it.

I know our majority leader has said:

We can keep the filibuster for legislation, just not on nominations.

But the American people know you cannot sort of end the filibuster. If this

nuclear option goes into place, citizens across our country understand that their rights will be taken away in large part by those who have expressed themselves before they were nominated in matters dealing with gender, dealing with marriage, dealing with all kinds of issues on which the American people have a right to have a view.

No, this now says we are just going to do it for the judges. Beware, once that barn door opens, we are going to see all kinds of changes. You cannot sort of end the filibuster. You either have to keep the filibuster or you end it.

Would the majority leader like to rename the Jimmy Stewart film, ''Mr. Smith Goes to Washington Except for Judges''?

Speaking of popular culture, the biggest film of the year is opening this week, ''Star Wars: Revenge of the Sith.'' This is one of the characters in that film. He is the leader of the Senate in a far-off universe. In this film, this leader of the Senate breaks rules to give himself and his supporters more power, and after this move from the Senate leader, another Senator states:

This is how liberty dies.

One film critic described this film as a story of ''how a republic dismantles its own Democratic principles.''

As millions of Americans go to see this film this week and in the weeks ahead, I sincerely hope it does not mirror actions being contemplated in the Senate. I say to my colleagues, do not let liberty die. I urge my colleagues, on behalf of the American people—and I ask the American people to express themselves on this—do you want to give up your rights, do you want to give up your rights to protect your children against a foul environment? Do you want to give up your rights to be able to work in a safe environment? Do you want to give up your rights to decide on questions such as war and peace? I urge do not let it happen. I urge my colleagues to oppose any attempt to break the Senate rules and destroy over 200 years of American tradition. We must save the United States and the interests of our country as a whole.

I yield the floor.

The PRESIDING OFFICER (Mr. BURR). The Senator from Delaware.

Mr. CARPER. Mr. President, I have served in the Senate for a bit over 4 years. When I came, I never imagined I would stand on this floor and defend a filibuster. I came to try to make sure we preserve jobs and bring in new ones, to make sure kids got a new education, to make sure we brought down the costs of health care and made it affordable and extended to a whole lot more people, that we ran a fiscally sound ship of state, and that we provided for the security of our Nation. I came for all of those things. I never imagined I would be standing in a food fight on how we are going to approve these judges, how many confirmations are enough and what constitutes a shortfall.

In Delaware, we are proud of being the first State. We were the first State to ratify the Constitution. We did it December 7, 1787. The Constitution that we confirmed at the Golden Fleece Tavern in Dover, DE, had been hammered out about 75 miles north up the road in Philadelphia. The last part of the Constitution that was hammered out, maybe one of the more difficult aspects of the Constitution, was not only who is going to be President, how are we going to pick the President, how long will their terms be. That was worked out. They did not get caught up in how old does one have to be to be a Senator or how old does one have to be to be a Representative, how long are the terms going to be. That was worked out. What was hardest to work out in the Constitutional Convention, almost harder than anything else, was how we are going to pick these judges.

There were some folks at the Constitutional Convention, led by Ben Franklin, who were fearful we would end up in this country with a king. We may not call him a king or we may not call her a queen, but we would end up with a king. They were dead-set determined to make sure we did not do that.

If we read through the Constitution, it is an intricate set of checks and balances that are designed to make sure that we have a President but we do not have a king. With those sets of checks and balances, the Constitution has served us extraordinarily well.

The Constitution also said, in addition to having a House and a Senate and how one gets elected to serve and how long they serve, it also said the House and Senate could each set out their rules. The Constitution does not say what the rules of the Senate are. It says we can write our own, and we have done that.

We heard earlier this afternoon about how the rules have been changed with respect to invoking cloture to end debate. Before 1917, Senators could not invoke cloture. Another Senator could talk literally as long as they could stand. From about 1917 to 1975 or so, the rule was that there had to be roughly a two-thirds supermajority to be able to end debate. Using the rules of the Senate to effect change, the rules were changed to say, no, a three-fifths majority, 60 Senators, is needed to bring debate to a close.

It is interesting how we confirm our judges in Delaware. Governors nominate with the advice and consent of the Senate. We do not nominate people to lifetime terms on the bench. We nominate them to 12-year terms. The remarkable thing in Delaware is for every—and I served 8 years as Governor—Democrat I nominated to the bench I had to nominate a Republican. We are equally balanced Democrat and Republican.

In survey after survey, the Delaware legal environment, including our judiciary, is regarded maybe as the best in the country. We do not have these food fights in Delaware. We have the best judiciary. We have Democrats and we have Republicans who serve on the bench. They are nominated by Republican and by Democratic Governors.

I ran into a friend of mine not long ago who has loosely been following this debate on judicial nominations. He asked: Why do you not confirm more of the President's judicial nominees? And I said: How many do you think we have confirmed, or what percentage do you think we have confirmed?

He said: Maybe half.

And I said: No, no my friend, 95 percent.

He said: Really? Do you not have a lot of vacancies on the Federal judiciary bench?

I said: No. We have one of the lowest vacancy rates we have had in years.

I asked him in return: While we have confirmed over the last 4 years 95 percent of President Bush's nominees to the bench, what percentage of President Clinton's nominees do you think were confirmed during his first 4 years?

Well, I do not have a chart here that says what the answer to that question is, but just to remind us all, from 2001 to the beginning of this year, 95 percent of President Bush's nominees have been confirmed.

If I had a magic marker I would make a big yellow line through this and write in 81 percent because that is the percentage of President Clinton's nominees that were confirmed in his first 4 years.

There is a great irony. I am told we never heard a peep or a squeak from our friends on the other side of the aisle during the first Clinton administration when his nominees were denied a vote on the floor. It was not because of a filibuster. They were denied a vote on the floor because somebody on the other side of the aisle in the Senate Judiciary Committee would not let a hearing be held, not on one or two judges nominated by Bill Clinton but on scores of them. They would not have a hearing. They would not let a nominee out of committee. They did not have to kill them on the floor in a filibuster. They did it in committee, quietly, out of the view of the public.

Now, why just a few years ago was it okay to deny 19 percent of President Clinton's nominees an up-or-down vote on this floor? Why was that okay? And why is it with this President—he received 95 percent of what he wants and actually in the end he will get more than that. There are a couple from Michigan that we are going to confirm. Some of the 10 have basically withdrawn their names or retired from the bench.

The figure of 95 percent actually understates what ultimately this President will realize in confirmation victories.

The other number I want to share, talking about advice and consent, is 2,703. This number is 1. What do they refer to? During the first 4 years of

President Bush's presidency, he nominated over 200 judges. Republicans and Democrats voted on those judges. There were 2,703 aye votes from the Republican side of the aisle on President Bush's judicial nominees. In those 4 years, there was one nay vote from the Republican side of the aisle on a judicial nominee of this President.

We can argue forever what advice and consent really was meant to be when the Constitution was written. But if we are in a situation where 50 percent plus 1, 51 percent, would enable a nominee of this President or any other President to go on to serve for life on the Federal bench, and if you look at the last 4 years and only 1 person out of 2,704 votes was no, does that give you any kind of confidence that we are going to see any sort of checks and balances going forward? It doesn't give me much.

I do not care if you are a Democrat or Republican, it should not matter. It should not matter who is in the White House or the House and Senate. But when you get a situation where you have one party that controls the White House and one party controls the House of Representatives and one party controls the Senate, and you have, out of 2,704 votes for judicial nominees, only 1 Republican Senator who ever voted no, and it was for somebody initially nominated by Bill Clinton, that is something we ought to worry about.

Someday, someday we are going to have a Democratic President. Someday we are going to have a Democratic majority in this body. We have sayings in Delaware. I bet they have in Minnesota, too. Maybe in Vermont. Among those sayings are these: Chickens do come home to roost; the beds that we make are some days the beds that we get to sleep in; what goes around comes around.

I promise you, I promise you, my friends, if a decision is made to pull this trigger, this nuclear option, and we end up with a situation where the rights of the minority really are, in my view, ignored, maybe even trampled on, the Republicans who do this will come to rue the day.

Let me close with this. I came here to get things done. As I look around this floor, the other Senators who are here whom I respect, I know you came here to get things done as well. I mentioned at the outset the kinds of things I wanted to see us accomplish. I describe myself as a recovering Governor. We have a recovering mayor who is presiding here today. We like to work together. We would like to work across the aisle. We are even happy to work with the President, Democrat or Republican.

My fear is here is what is going to happen. If this action succeeds, if we do change the rules of the Senate to lower to 51 the votes that are needed to end a filibuster on judicial nominations, that is a slippery slope. If we can do it on judges, we can do it on other nominees to other posts, we can do it on amendments, we can do it on bills. It is a slippery slope. But there is an even greater concern to me, as a guy who wants to get things done.

I see Senator LEAHY is here. He is working with Senator SPECTER on asbestos litigation reform. We need to pass that litigation. We need to right a wrong. My fear is, if we take this step, trying to work out a very difficult compromise on that legislation will be made more difficult, not easier. We need to address the rising cost of health care and all the folks who do not have it and cannot afford it, and employers are stopping providing it. We need a comprehensive energy policy in this country. It is tough in the best of times to hammer that out.

Mr. LEAHY. Will the Senator from Delaware yield?

Mr. CARPER. I am happy to yield.

Mr. LEAHY. I absolutely agree with the Senator from Delaware. We have a lot of bipartisan legislation that is not even being looked at. The NOPEC bill is one, with Senator DEWINE, Senator KOHL, myself, and others. We looked at the fact that gasoline prices have gone up nearly 50 percent in the last 5 years alone, and yet we have no constraints on artificial prices being set by the NOPEC countries here in the United States. It takes more than holding hands with Saudi princes to bring down prices. We have to ask for real efforts. This is legislation that could pass. This is legislation that could pass. Put some teeth in it. Instead of holding hands, we could hold court actions, and we would be somewhere ahead. That is just one area.

The Senator from Delaware mentioned the asbestos bill. Senator SPECTER and I have worked on it on a totally bipartisan fashion with Senators on both sides of the aisle. We have a bill that could pass. It would take some effort on the floor. It would take a week or so, but it could pass. Victims of asbestosis would be helped. Companies would have some idea what their costs are. The economy would dramatically improve. That bill is going to die if the nuclear option goes through because we will lose the ability to move bipartisan legislation.

We have law enforcement legislation at a time when most of the law enforcement grants, such as the COPS grants and whatnot, are being cut by the administration. A lot of Members on both sides of the aisle are trying to find a way to get that money back to our police officers, the money being cut. We cannot have a debate on it.

This is going to take up—you confirmed 208 judges; blocked, actually, 5. I have been here 31 years. I don't believe anyone has had a record that good. Certainly no baseball team ever had a record that good. The President ought to declare victory on that, having done so much better than all but about three Presidents of recent memory, and let us get on with things. Bring down the price of gasoline, for one; that is affecting the American people.

Mr LEAHY. Mr. President, today we continue to debate the Republican Leader's bid for one-party rule through his insistence to trigger the ''nuclear option.'' I spoke yesterday about this misguided effort to undercut the checks and balances that the Senate provides in our system of Government, and about the need to protect the rights of the American people, the independence and fairness of the Federal courts, and minority rights here in the Senate.

I started my statement yesterday by commending the chairman of the Senate Judiciary Committee. Today I want to add and thank a number of Senators who participated throughout the debate yesterday for their contributions: the Democratic leader; the assistant Democratic leader and senior Senator from Illinois; the senior Senator from Washington; both Senators from California; the senior Senator from New York; the senior Senator from Montana; the senior Senator from Minnesota, the senior Senator from Massachusetts and Senator DORGAN.

I noted yesterday that this is a setting in which Democratic Senators alone will not be able to rescue the Senate and our system of checks and balances from the breaking of the Senate rules that the Republican leader is planning to demand. If the rights of the minority are to be preserved, if the Senate's unique role in our system of Government is to be preserved, it will take at least six Republicans standing up for fairness and for checks and balances. I believe that a number of Republican Senators know in their hearts that this nuclear option is the wrong way to go. I know that Republican Senators with whom I have been privileged to serve know better. I hope that more than six Republican Senators will withstand the political pressures being brought to bear upon them and do the right thing, the honorable thing. I have to believe that enough Republican Senators will put the Senate first, the Constitution first, and the American people first, and withstand those political pressures when they cast their votes.

Today, as we continue this discussion, I note that the Senate remains fixated on a handful of the President's most extreme and divisive judicial nominees. The Democratic leader rightly said recently that the current tally is 208 to 5. The Senate has confirmed 208 of President Bush's judicial nominees, and we are resisting action on five.

I included in the RECORD yesterday my statement laying out my reasons for opposing the nomination of Priscilla Owen. As we continue to debate a nomination that was rejected by the Judiciary Committee in 2002 and on which the Senate engaged in extensive debate in 2004, the Senate is neglecting other matters. That is the choice made by the Republican leadership, in insisting on this confrontation and upcoming conflict.

The Democratic leader is right when he urges the Senate to ''put people over

partisanship'' and to work to reduce gas prices, make health care more affordable, create new and better jobs and give our veterans and their families the support they need and deserve.

Among the matters being neglected in order to engage in this political exercise is consideration and passage of the NOPEC bill, S. 555. This is bipartisan legislation. Our lead sponsors are Senator DEWINE and Senator KOHL. With the increase of gasoline prices by almost 50 percent during the Bush Presidency, with Americans having to pay so much more each week to get to work, drive their kids to school and just to get around, the Republican leadership of the Senate is ignoring a substantial burden on American working families.

This week, the national average price for a gallon of regular gasoline was $2.18. In Vermont, gas is slightly less expensive, but still a hefty $2.15 per gallon. Just a year ago the price was $1.92. When President Bush took office it was $1.46 a gallon.

The artificial pricing scheme enforced by OPEC affects all of us, and it is especially tough on our hard-working Vermont farmers. Rising energy expenses can add thousands of dollars a year to the costs of operating a 100-head dairy operation, a price that could mean the difference between keeping the family business open for another generation or shutting it down.

With summer coming, many families are going to find that OPEC has put an expensive crimp in their vacation plans. Some are likely to stay home; others will pay more to drive or to fly so that they can visit their families or take their well-deserved vacations.

Americans deserve better, and if the White House will not act to abate this crisis, it is time for Congress to act. It is past the time to hold hands and exchange kisses with Saudi princes who artificially inflate the price of gasoline. The President's ''jawboning'' with his Saudi friends has proven unsuccessful. It is now time to act, and the Senate, under the Republican majority leader, is choosing instead to revisit a handful of extreme judicial nominations that have already been considered and rejected by this body.

The production quotas set by OPEC continue to take a debilitating toll on our economy, our families, our businesses, our industry and our farmers. Last year and again last month, the Judiciary Committee voted to report favorably to the full Senate the bipartisan NOPEC bill. Our legislation would apply America's antitrust laws to OPEC's anticompetitive cartel. Why not give the Justice Department the clear authority to use our antitrust laws against the anti-competitive, anti-consumer conduct in which they have engaged? We should take up that bill, debate it and pass it without further delay. The many days of the Senate's time allocated to the provocative ''nuclear option'' comes at the expense of our taking up the NOPEC bill on behalf of the American people.

Another consequence of this fixation on the effort to increase the White House's political power, and to aid this President's attempt to pack the Federal courts, is the loss in focus and sacrifice of progress we have been making on asbestos reform. For more than 3 years I have been working on asbestos reform to provide compensation to asbestos victims in a fair and more expedited fashion.

Chairman SPECTER and I have worked closely on S. 852, the FAIR Act. It is pending before the Judiciary Committee. We are in the midst of our markup sessions. That effort was scheduled for yesterday and today, but the Chairman had to cancel our consideration yesterday in light of this debate and it had to be cut short today. That is most unfortunate. We have been working hard and in good faith to achieve bipartisan legislative progress on this issue. We have done so despite criticism from many quarters. That bipartisan effort is now being retarded by this continuing debate.

There are many, many items that need prompt attention. I understand that the Armed Services Committee last week completed its work on the Department of Defense Authorization bill. Why the Republican leadership is delaying Senate consideration of the Defense Authorization bill I do not understand. At a time when we have young men and women in combat zones and when the home front is being affected by recently recommended base closings, I would have thought the Defense Authorization bill would be a priority.

Let me mention just one other set of legislative issues. Last week was Police Week. On Sunday I was privileged to attend the National Peace Officers' Memorial Service commemorating the service and sacrifice of 154 public safety officers killed in the line of duty over the last year. I worked in a bipartisan way with Senators SPECTER, BIDEN, HATCH, BROWNBACK, CORNYN, DEWINE, DURBIN, FEINGOLD, FEINSTEIN, KENNEDY, KOHL, KYL, SCHUMER, SALAZAR and COLLINS to introduce and pass S. Res. 131, which recognized May 15 as Peace Officers Memorial Day and called upon the entire Nation to join in honoring our law enforcement officers. The President spoke movingly at the ceremony held here on Capitol Hill on that day of remembrance.

This week we should honor our law enforcement officers with supportive legislative action. In the past we have worked in a bipartisan way to improve the Public Safety Officers Benefit Program and to provide educational benefits for the families of State and Federal officers who have been killed in the line of duty. Sadly, the administration has not yet implemented the latest round of improvements to the Public Safety Officers Benefit Program that we enacted last year. I have urged a Judiciary Committee hearing on this delay, as well as on the general state of police officer safety. The Fraternal Order of Police, the International Association of Chiefs of Police, the National Association of Police Organizations, the National Sheriffs' Foundation and other law enforcement organizations are all interested in working with us to ensure that the Justice Department produces comprehensive regulations that effectively create a more user-friendly PSOB Program.

In addition, we should be considering the Social Security Fairness Act, S. 619, the bill that Senators COLLINS, BOXER, FEINSTEIN and a number of us have cosponsored over the years to protect the Social Security and retirement of police officers. Those on the front lines protecting all of us from crime and violence should not see their Social Security benefits reduced because they have historically participated in separate retirement benefit programs. That needs fixing and this week would be an appropriate one to take that Senate action.

These are merely examples of some of the business matters the Republican majority of the Senate has laid aside.

Mr. CARPER. Mr. President, what I was saying, in closing, one of my greatest fears is that we end up with this partisan battle. Those of us who fervently want to accomplish asbestos litigation reform, a comprehensive energy bill, determining what the business model for the Postal Service ought to be in the 21st century or the passenger rail service in the 21st century—what should our next steps be in welfare reform? How are we going to provide health care coverage, reduce the costs, and extend coverage to all kinds of people? There is a ton of stuff, so many issues we need to address.

The postal bill alone—the Presiding Officer serves on the Homeland Security and Governmental Affairs Committee with me. We worked for years, Senator COLLINS, myself, and others, to determine what should the Postal Service look like in the 21st century. What should the business model be? We unanimously passed the bill last year out of committee. Over in the House of Representatives, almost the very same bill was negotiated, debated, and passed unanimously by our counterpart committee. There was not a single ''no'' vote. We could not get either bill to the floor for debate. And that is when we agree.

I remind my friends, if it is that hard to get legislation through the House and Senate to the President for his signature when we agree, God help us on difficult issues such as asbestos or comprehensive energy policy or health care or the like.

Finally, I have a whole lot of quotes here. I was trying to figure who to close my remarks by quoting. I looked for something for the Senator from Minnesota, the Presiding Officer, which might seem appropriate. I couldn't find anything, at least on this subject, so I turned to another source. I think it is

actually pretty good. It is not a Senator, but he probably wouldn't be a bad one, a fellow who has thought a lot and written a lot and I think is generally regarded more favorably on the other side of the aisle than this one, and he makes a lot of sense sometimes. I will close my comments today with a quote from George Will. Here is what he said about the filibuster:

The filibuster is an important defense of minority rights, enabling democratic government to measure and respect not merely numbers but also intensity in public controversies. Filibusters enable intense minorities to slow the governmental juggernaut. Conservatives, who do not think government is sufficiently inhibited, should cherish this blocking mechanism. And someone should puncture Republicans' current triumphalism by reminding them that someday they will again be in the minority.

Will goes on to conclude:

The promiscuous use of filibusters, against policies as well as nominees, has trivialized the tactic. But filibusters do not forever deflect the path of democratic government. Try to name anything significant that an American majority has desired, strongly and protractedly, but has not received because of a filibuster.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from North Carolina.

Mr. BURR. Madam President, I rise to urge my colleagues to support an up-or-down vote on these judicial nominees. I have a great respect for my colleague from Delaware, and I do not stand up with pretty charts with big numbers. I am not a recovering State legislator or recovering city mayor, and I hope I am never a recovering parent or father.

I stand up as a parent today, as a father of two kids, with the full knowledge and understanding that the work we do up here in large measure dictates the America that is going to be there for them. That if we are to follow the strategies on that side, the chart that my colleague showed would never change because we would never vote. That bipartisanship that is needed for legislation—whether it is health care or whether it is energy policy or whether it is asbestos reform—would not be achievable because we would never come here to register a yea or nay on behalf of the people who sent us here.

We are faced with difficult votes, but we take those difficult votes. We do not shy away from the responsibility that people elected us to come here and to make a judgment call and, more importantly, to be held responsible for it. The only thing I can think of relative to not taking a vote is that there are some who believe they will not be held responsible if, in fact, they force this body not to vote, that eventually people will wear down and that if we happen to seat someone that is not the best, the most qualified, that is OK because it saved this institution a fight.

I will tell my colleagues I cannot think of anything more important if there is going to be a fight than that fight be on who we put on the bench.

Now, today's debate, though we have a nominee up, I don't think is about one particular person because clearly we have not heard arguments that this is an unqualified individual. As a matter of fact, in seeking compromise there have been proffers now to this side that suggested: We will vote on five, but not seven, and you pick the two you want to chuck overboard.

What message do we want to send to that law student out there who aspires one day to being on the bench and ultimately seeking a nomination by the President to a Federal court or to the Supreme Court? If you want to do it, understand you will go through personal character assassination; that in some cases you may have to wait 4-plus years to get there.

In 1995, Senator LAUTENBERG stood on this same floor, in this same building, as a Member of the Senate, and he said this then when talking about fairness of the system and how it is equitable for a minority to restrict the majority view:

Why can we not have a straight up-or-down vote on this without threats of filibuster, without threats of filibuster. Whether it was Robert Bork and John Tower or Clarence Thomas, even though there was strong opposition, many Senators opposed them. The fact is, the votes were held up or down.

June 21, 1995. Senator LAUTENBERG.

Today, he denies this Senate a vote on a judicial nominee and threatens a filibuster on all the nominees.

This afternoon, Senator KERRY claimed it is dangerous for the Senate to limit filibusters on judicial nominees. Senator KENNEDY and Senator LAUTENBERG joined Senator KERRY in defending judicial filibusters. But on January 5, 1995, just shortly before, Senator LAUTENBERG was on the Senate floor making the statement I read, all three of those Senators voted to change the Senate rules to eliminate all filibusters on nominations, motions, legislation—everything. If any of those three Senators had had their way in January 1995, we would have an up-or-down vote on these judicial candidates, but we also wouldn't have the ability of the filibuster as a tool in the legislative process.

Some claim this is the start down a road to doom. It is not down the road to doom. Senator KERRY, Senator LAUTENBERG, and Senator KENNEDY voted for it and were joined by Senator FEINGOLD, Senator BOXER, Senator SARBANES, Senator HARKIN, Senator LIEBERMAN, and Senator BINGAMAN. We are not plowing ground that hasn't been plowed.

If anything, we are saying, for 214 years this institution, the Senate, had a gentleman's agreement, and that agreement was that the filibuster would never be used for judicial nominees. For 214 years they showed restraint, even though the rule allowed them to do it because they understood that the process was so important to make sure the best and the brightest found their way to the bench. For 214 years a handshake was all it took.

Something changed in the last Congress. For the first time it was actually used. Now, in an effort to have an up-or-down vote, to have a process like I described in the last election to the people who elected me that I would come here and try to achieve, even if we needed to make sure that the constitutional option of eliminating the filibuster only as it exists for judicial nominees is removed, some suggest that would be disastrous for the Senate.

Some of those same people in 1995 voted to eliminate the filibuster for judicial nominees, for the legislative process, for everything, and they are the same ones who claim this would be disastrous to the Senate today.

So much has been said, so many accusations, so many claims, so many revisionists of history. The reality is in a conversation I had with a high school student just this week, as she looked at me: Can you explain these actions on the floor? I talked about the 214 years that the gentleman's agreement allowed a nominee to get an up-or-down vote with no filibuster and the fear that we were reaching a point where we might have to make a decision, and the concern that existed in this Senate and around the country that it might be disastrous. She looked at me after I explained it to her and she said: Senator, with 214 years of experience, it is not going to be disastrous. Why would you wait so long to do it?

The reality is that sometimes it takes years to understand what we have a hard time understanding up here. For 214 years the filibuster was not used, and we picked the best and brightest and got them on the bench and they guided this country and we have been headed in the right direction.

If the choice is made and we have to choose to eliminate this tool, this is not a dangerous thing for the institution. We have 214 years of experience. We will be just fine. And the challenge will be to protect that filibuster as it relates to the legislative process.

I am here as a new member, as a father, as a citizen, who deeply believes I was sent to the Senate to get work done. That work I do on behalf of North Carolina and for the citizens across this country. There is no doubt in my mind that I was sent here to do what the people of North Carolina heard me say that I would do, and that was to work hard and to accomplish solutions to real problems. There is no doubt in my mind the task includes ensuring that the Senate provides judicial nominees on up-or-down votes.

I am not going to lobby my colleagues which way to vote, but isn't it common courtesy to allow these nominees to have some finality to this process? The judge that is up today, Priscilla Owen, has been in this process for 4 years. I have asked myself, even though I am not a lawyer by profession, would I stick with it 4 years? Would I put myself and my family, my

friends, my career through the types of delays that she has faced? The answer is, I do not know.

The question is, What are future nominees going to say when they get that call, when the President of the United States—whether he is a Republican or Democrat—calls in the future, and says, I need your service to this country, and they look at the precedent of 4 years, of 2 years, of 18 months, of the harassment, of the claims? Are they going to say ''yes, sir'' or ''yes, ma'am'' to the President of the United States? They might. But we might lose the opportunity at the best and the brightest.

One month ago, I joined my freshmen colleagues in urging the Senate leadership to get in a room, to break the current impasse regarding judicial nominees, and to develop a process that was respectful of both parties, where judicial nominees, at the end of the day, receive an up-or-down vote.

I said earlier, the Democrat's offer was: We will vote on five but chuck two of them over the side, and you pick which two. I cannot think of anything worse for the future of this country than for us to treat the best and the brightest with the disregard that proffer would suggest.

I remain hopeful still today that a resolution can be reached. Many of us have worked toward a fair process where all judicial nominees with majority support, regardless of party, receive an up-or-down vote. Let me say that again: regardless of party, receive an up-or-down vote.

What happened for 214 years? This debate is about principle. It is about allowing judicial nominees an up-or-down vote on the Senate floor. And I believe it is an issue of fairness. Let me be perfectly clear, though. I believe if one of my colleagues objects to a particular nominee, it is certainly appropriate and fair for my colleague to vote against that nominee on the floor of the Senate. But denying judicial nominees of both parties, who seek to serve their country, an up-or-down vote, simply is not fair. It was certainly not the intention of our Founding Fathers when they designed and created this very institution.

Together, as Members of the Senate, we are advocates for democracy and for a democratic system of government. It is vital that we have a system that continues to serve as an illustration of effective democracy around the world. The integrity of our judicial system is so very important, and it will certainly suffer as a result of inaction.

Obstructing votes on Presidential nominees threatens the future of our judicial system and the nature of the Supreme Court. You see, I am not sure that many Americans have stopped to think: Well, what happens if this is exercised for Supreme Court Justices? Because I believe in the next several years we will have one or two or possibly more Supreme Court nominees to consider.

Well, the Court still meets. If we are not able to produce a Justice out of this fine Hall, then they will meet with eight Justices. I have to believe there is an odd number of Justices for a very logical reason. It was so there would not be a tie.

On a 4-to-4 tie, what happens? Seldom have we asked the question. On a 4-to-4 tie in the Supreme Court, the lower court's decision stands. That means all of a sudden the Supreme Court, our highest court, the Court we look to to be the best and brightest to interpret law and the Constitution, is insignificant in the process. It means that whatever that court of appeals was—the Fourth Circuit or the Ninth Circuit—whatever decision they came up with that somebody believed was wrong, and they appealed it to the Supreme Court, and the Supreme Court, on the merits of the case, heard it, would become the law of the land.

My colleagues on the other side argue that the reason this is so important is because a Federal judgeship is for life. Let me say to them today, if you exercise this as it relates to the Supreme Court of the United States, and you jeopardize that there may be a 4-to-4 tie, the result is not for the lifetime of the judge you did not seek, it is for the lifetime of this country because that is now the law of the land, that an appellate court, whether it is the Fourth or the Ninth—not the Supreme Court—that will be the ultimate determining factor as to what the law is that our children, our grandchildren, their children, their grandchildren will live by for their entirety.

I urge my colleagues to consider the nomination of Priscilla Owen and all the Federal judges who enjoy the support of a majority of the Members of this Senate. I am reminded, as I stand here, that so much has been said that suggests this process has not been fair. I have looked back at some of my colleagues who have been here for years and who have experience I hope one day to have in this fine institution.

Senator BOXER, in 1997, said:

> According to the U.S. Constitution, the President nominates and the Senate shall provide advice and consent. It is not the role of the Senate to obstruct the process and to prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor.

What has changed since 1997? I read this statement four or five times. There are no exceptions. There is no ''shall be'' or ''case of.'' It is very clear, ''given the opportunity for a vote on the Senate floor.''

And Senator DURBIN, who has been a regular in this debate, in 1998, said:

> I think that responsibility requires us to act in a timely fashion on nominees sent before us.

He went on to say:

> If after 150 days languishing on the Executive Calendar that name has not been called for a vote, it should be. Vote the person up or down. They are either qualified or they are not.

One hundred fifty days should be an automatic trigger that a judicial nominee should come up for a vote up or down—1998—no qualifications, no exceptions. Well, Priscilla Owen has been waiting 4 years. If we had accepted his challenge in 1998, Senator DURBIN's challenge, 150 days after she was first nominated, this body would have voted up or down.

I believe she ought to be voted on up or down today. I believe it is an injustice to the American people that a threat of a filibuster or the application of a filibuster will be applied to the judicial nominees.

Madam President, I know there are a lot of Members who want to speak. I am convinced there will be truths and there will be half-truths that will be spoken as we go through this process. But I am also assured that every Member of the Senate understands the obligation we have when we are sworn in. I would urge my colleagues that obligation is not to a 2-year session of Congress. It is not an obligation to show up every day. It is not an obligation to be involved in committee work, or it is not an obligation necessarily to come up with solutions to problems. But it is an obligation to vote. It is an obligation that when you come in this body it is with the intent to vote up or down. I am convinced that when Priscilla Owen is allowed to have a vote, that her nomination will be confirmed.

I am convinced it is in the interest of this Senate, of this United States, of my family, of your family, of the citizens of this country, that we proceed forward in whatever fashion we must to assure that vote takes place. I am convinced if we don't, the scenario of the inability to accede a Justice to the Supreme Court will cause irreparable harm to the policies, the laws, and to the future of this country.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Madam President, I thank the Senator from North Carolina for his excellent statement.

I have been on the floor many times to talk about the issue of judicial nominations, to stand and speak in favor of many nominees to the bench who have been debated over the past couple of years. Last night, I had the opportunity to meet with Justices Janice Rogers Brown and Priscilla Owen. I expressed to them my personal sympathy for them and their families, as I do to all of those who have had their lives, careers, and decisions unjustly dragged and contorted through the streets of debate on the floor of the Senate.

Four years ago now, when Justice Owen was nominated, I am sure that was a very proud day for her. I am sure she looked forward to the challenges of the confirmation process and the challenges of serving in the circuit court. I don't think anyone could possibly have conceived that a person with her judicial standing, having been rated the highest qualified by the American Bar

Association, having served as a supreme court justice in one of the largest States, having been elected in that State with over 80 percent of the vote, having accolades from Democrats and Republicans alike who have served with her on the court, as well as public officials in Texas—I don't think she could have possibly imagined she would be involved as one of the focal points of this maelstrom we see pouring out here over the last few days and, unfortunately, over the last couple years on the floor of the Senate.

These nominees have my respect. They have my respect for their courage and for their perseverance. It has been an act of perseverance on the part of many of them. All of them could have easily walked away—not that they don't have good jobs and great careers, and if not universally respected in the legal community, they are certainly highly respected. They don't get nominated for these positions unless they are highly respected within the community.

So I think it would have been very easy for many to walk away, but they have not. They certainly have earned my respect, no matter what happens here. I think it is a very sad day when we take highly qualified people who are willing to serve, and who have served in the judicial capacity, and treat them this way. We hear so much from the other side about many of us complaining about activist judges, and being critical of judges, and how it is a security threat to judges. Well, I suggest what we have been seeing over the last couple of years in the way these judges and their records have been distorted, they have added to the sense of frustration of the American public as to our judiciary and our system of justice in this country.

We have an opportunity to correct that. We have an opportunity to step away from the mistakes of the past in the next few days and to allow up-or-down votes on the floor of the Senate again. For 214 years, 214 years—in this Chamber and the Chamber just down the hall, and once in a couple other places—in Washington and other places, such as Philadelphia—we had votes by Senators who were elected at very difficult times in our Nation's history, at contentious times, where judges had major roles to play on the issues of the day. Think back to the times of slavery, during the early 1800s, when judges played a huge role in this issue that eventually fractured this country. I am sure there were times when either side, depending on who was the President and who controlled the Senate, felt it would have been unfair to their cause, the Northern cause or the Southern cause, to have a person on the Supreme Court who would vote against their interests. I am confident many felt very much tempted to vote and join a filibuster to block a nomination to require a supermajority vote.

But if you think about it, it is remarkable they withheld from doing that and chose instead something most people would say is much more dramatic, and that is to secede from the Union. But Senators, enduring that very contentious time when there were fights on the floor of the Senate, understood that a very key part, an important part, essential part of the Senate is the process by which we govern ourselves; that the process protects our rights; the process protects the system of Government. They chose to withhold their passions—the passions of the moment for the issue of the day—for the right and controversy to do what was best for the institution of the Senate, the greatest deliberative body in the history of the world, potentially.

And now we have seen this infection that entered into the bloodstream of the Senate. Whether you want to call it a partisan infection or an ideological infection, there certainly is a sickness. I think it is a sickness that, candidly, both sides of the aisle feel. I don't know too many people who feel very good about what we are going through on either side. It is making us all weaker, sicker, and it is so doing to this institution. We need a cure. We had a pretty healthy institution when it came to this issue for 214 years. I think we can look to the prescription that we had for 214 years for a cure to what ails us in this body today.

The Senator from North Carolina accurately said we had an agreement—he used the term ''gentlemen's agreement''—a handshake, that this was the way we were going to proceed. I argue those in the 1850s had the right to filibuster judges. Those in 2003 had the right to filibuster judges. I had the right, during the Clinton administration, to filibuster his appointments. There were those whom I wanted to filibuster and those whom I desperately didn't want to see on the court, and we stood down because in spite of the passions and in spite of what I thought was a mistake to put a particular person on a particular court, there was something lasting, something more important, something certainly not eternal, but certainly eternal for as long as the United States shall survive, and that is this institution. We should not go mucking around in this institution and changing the way we do things, particularly when it comes to the balance of powers and the independence of one of the branches of our Government, the judiciary.

We must tread very carefully before we go radically changing the way we do business here, which has served this country well. We have radically changed the way we do business here.

Some are suggesting we are trying to change the law, we are trying to break the rules. Remarkable hubris. Imagine, the rule that this is the way we confirm judges has been in place for 214 years, broken by the other side 2 years ago, and the audacity of some Members to stand up and say, How dare you break this rule, it is the equivalent of Adolf Hitler in 1942 saying: I'm in Paris, how dare you invade me, how dare you bomb my city. It's mine. This is no more the rule of the Senate than it was the rule of the Senate before not to filibuster. It was an understanding, an agreement, and it has been abused.

In a sense, what we see on the floor of the Senate is a reflection of what we often see in our society. What we often see in our society is a government that increasingly is passing laws. I get this from some of my constituents sometimes. They say: You guys are always passing more and more laws and more and more laws, and ultimately when you are passing laws, in many cases what you are doing is restricting people's freedom.

The more laws we have on the books, the more laws there are to obey, the more laws you have the ability to break. So why do we do this? Because we respond to problems in society that come about certainly, in many cases, because what we once thought we did not need a law in place to keep people from doing, we now have laws in place to punish people who heretofore understood it simply was not a good thing to do.

We did this recently with the corporate scandals. What did we do? We passed a huge law, Sarbanes-Oxley, in response to what? Activities by a group of people who simply forgot about the handshake, forgot about the duty we have to each other, and pushed the law well beyond what we intended. So we had to pass a new law, and we had to constrain 99 percent of the people in America who never even thought about breaking the law or doing the things that were done by Enron and Tyco and all those people. So we had to pass laws on everybody.

Was it a good thing to do? We had to pass the law because there were some who could not live by the law, could not live civilly, could not live with not just the letter of the law but the spirit of the law.

So we had to pass legislation that restricted freedom, that put burdens on people. That is why I have said many times I am not crazy about having to vote to eliminate the possibility of filibusters on judges. I am not anxious to do this anymore than I was anxious to pass some of the corporate responsibility provisions. One would like to think, particularly here, where we are supposed to be a reflection of what is best in our society, that we can understand what we are doing here is wrong and just step back from the ledge and let civility reign, let the tradition of the Senate be upheld.

I do not want to have to pass a law. I want to see a Senate that can agree to act civilly, to respect tradition in the process of running this place that has worked well for 214 years. That is what I want.

So I have encouraged many to sit down and try to negotiate. I encouraged our leaders to do so. I know our leader has tried diligently. I just spoke with him on the phone a few minutes

ago, and he continues to work to avoid what no one—at least I hope no one in this Chamber—wants to see happen. I certainly do not. But we can no longer live—just like we cannot live with the opportunity of those to cheat shareholders and employees—we can no longer live with the minority trying to cheat those nominated by the President of the United States from a fair up-or-down vote in the Senate. We cannot tolerate that. That is behavior beyond the pale. That is behavior that no Senate, prior to the last one, tolerated. None.

I have repeatedly asked and I know other people have asked repeatedly, Name one judge brought to the floor of the Senate who had majority support who was not confirmed. Name one, prior to 2 years ago. Never happened. Never happened in the entire history of the Senate. Never happened. We have 10, potentially 16 who would have that privilege because of this new precedent.

I cannot understand how Members of the Senate can come here and say what we are doing is breaking the rules. Breaking the rules? I do not know how you can possibly contort the facts of this case around to where the Senate Republicans, by returning to the tradition of the Senate of 214 years, is somehow breaking the rules.

This is truly a sad day. It has been a sad week. If you look and listen to my constituents—and I am sure all of our constituents—they are not happy about this debate. They are not happy a group of 100 leaders—100 leaders—cannot negotiate and find some way of acting civilly, of reflecting to our children and our grandchildren that we know how to play nice and we know how to play by the rules.

But the passions of the moment, the passions of the moment have swept over us, and those groups out there that are fomenting this because of their own ideological agenda are the culprits, or at least the motivation, but the votes are here. The votes are here. I am hopeful there are enough on the other side of the aisle who will come to the realization this is not good for them, this is not good for their ideology, it is not good for their partisanship, this is not good for the institution, and this is not good for the country to continue down this path.

When I came to the Senate, I came from the House, like the Senator from Georgia, from the legislature, like the Presiding Officer. I had never dealt with executive nominations before. So one of the things I looked into is how do I determine what a good judge is. We did a little looking around and determined how do you evaluate a judge.

First, are they qualified? Do they have the educational skills, the experience to do the job? Second, are they ethical, not just did they break any laws, but are they ethical individuals and have a reputation for high ethics? And three, do they have an understanding of the role of a judge? Those are the three things.

You did not hear me say, do I agree with them on this issue, this issue, or that issue, because my feeling is whoever is elected President will appoint people who agree with their philosophy. That is how it works, just as when you appoint a Secretary of Veterans Affairs or a Secretary of Energy, you appoint someone who intellectually agrees with your philosophy.

When President Clinton was elected, I came here, and I supported almost every Clinton nominee. Did I agree with them? Absolutely not. Did I think most of them would be damaging to the court? Absolutely. Did I vote for them? Yes. There are a couple of exceptions. One in particular, I have to tell you, who caused me a lot of heartburn was Judge Richard Paez from California who showed a record of activism on the court that was upsetting to me and showed that he was not someone who understood the role of a judge.

So under that he certainly was qualified, and I had no questions about his ethics, but I did have a question as to whether he understood the role of a judge. From his experience it showed me he did not.

There were many who wanted to filibuster Judge Paez because of that very fact. In my mind, certainly from the standpoint of not wanting someone on the court, it would have been a justifiable filibuster, except for the fact that is not the way we do things in the Senate, because you know what. The President won the election, and he can nominate who he wants. And we in the Senate have had a tradition saying if you can get a majority of votes in the Senate, you get confirmed.

It is about majorities. And by the way, I voted for cloture on Judge Paez and voted against him on the floor when an up-or-down vote came. He did not get 60 votes. Had we filibustered, he would not be on the Ninth Circuit today. We did not. I did not because it was not the right thing to do. It was absolutely not the right thing to do.

I suggest that we have changed the qualifications from highly ethical, highly qualified and understanding the role of a judge to someone who is ''in the mainstream.'' That seems to be the idea now. So we are talking about ideology, in the ideological mainstream.

There were probably—well, Richard Paez, certainly from my view, I would argue, is probably not in the ideological mainstream of America but they all supported Judge Paez.

Probably Justice Harlan, who was the lone dissenter in 1896 in Plessy v. Ferguson, was not in the mainstream at the time.

Thurgood Marshall was confirmed in the Senate to the circuit court back in 1961 with 54 votes. As a lawyer for the NAACP in the 1950s, probably a lot of people in America would not have said he was in the mainstream.

There are a lot of judges who are not ''in the mainstream'' depending on what stream one happens to be swimming in.

Elections have consequences. In 1961, John F. Kennedy was the President. He won the election, and he got the benefit of the doubt on the Senate floor. He got an up-or-down vote. Majorities matter. I do not think my colleagues will hear the Senator from Georgia or any other Senator on this side of the aisle complain because for 18 months Priscilla Owen was held in the Senate Judiciary Committee during the chairmanship of Senator LEAHY. I certainly will not complain. It was his right not to report her nomination to the Senate floor. Why? Because they were in the majority. If a majority of that committee did not support her nomination, fine, hold it in committee. Defeat her in committee. That is fine. No problem.

If someone happens to be reported out and a majority defeats, fine, majority rules. This idea that 60, 80 whatever Clinton nominees were held in committee by Republicans during the last few years of the Clinton administration, they were held because the majority opposed them. The majority rules, up-or-down vote on majority vote. That is the 214-year tradition of the Senate.

The idea now is the minority rules. One can lose the presidency, lose four seats in the House and control who is going to be the next circuit and Supreme Court judges in the United States? Very interesting. I guess elections do not matter. I guess who people vote for, for President is of no concern to the minority in the Senate. They are the ones who should dictate who the nominees of this President should be. They are the ones who should dictate who comes to the floor and whether they get a vote or not.

That is not the precedent of 214 years. It has been an up-or-down vote. This is an outrage. This is an abuse of power.

It is interesting we are in the Senate, and we are talking about the minority abusing power. Yes, the minority can abuse power in this case, and in my opinion they certainly have.

One final comment, and I apologize to the Senator from Georgia and I appreciate his patience. I just want to make a comment on one case. Yesterday I heard the Senator from California make a statement with respect to Janice Rogers Brown, one I am particularly concerned about because it deals with the issue of Catholic Charities. I heard the Senator from California in describing Justice Janice Rogers Brown's decision in that case and she used the following words in describing her dissent: She, meaning Justice Brown, was the only member of the court who voted to strike down a State antidiscrimination law that provided a contraceptive drug benefit to women. That is her comment.

Now, she did not go into the fact what this law said. What was this law? Well, it was a law that said that if an employer provided health insurance they must provide contraceptive coverage—must. Now most folks who have

dealt in this area before would say: Is there not an exemption for those religious organizations who do not believe in contraception? The answer is the California legislature did provide such an exception. Let me read the exception. It said that we will exclude from coverage for contraceptive methods that are contrary to their religious tenets. Sounds reasonable. We do that all the time. If it is contrary to religious tenets of a religious organization, they do not have to offer this particular kind of care.

As a Catholic, the tenets of the Catholic Church are that contraceptives are wrong, and therefore they do not want to, according to their religious tenets, offer that service to their employees. Well, this is the California exception for a religious employer: One, the entity whose purpose is the inculcation of religious values. Well, this is Catholic Charities. Is it Catholic Charities' role to inculcate religious values? No. One of the key roles of the Catholic Church is to care for the poor, to care for those who are less fortunate. It is a basic and core value of the church. We hear it repeatedly offered by Members on the other side.

We have discussions about the church and its theology, how core and central helping the poor is. So they do not qualify under that.

Two, that primarily employs persons who share its religious tenets. Well, Catholic Charities does not primarily employ people. They employ people who want to serve the needs of the poor, and they do not ask whether you want to go to church or not at a Catholic Church.

Three, that serves primarily persons who share those religious tenets—in other words, only Catholics. Obviously not. They serve everyone. Mother Teresa is the classic example of a Catholic out on the front lines serving the needs of the poor irrespective of who they are.

Four, and qualifies as a church under a particular section of Federal law. Obviously, Catholic Charities is not a church. Under the religious exception of the California statute, Catholic charities is an arm directly under the control of the bishop, a mission of the church, not a religious organization.

What Justice Brown said was that is an outrage, that is unconstitutional, it is against freedom of religion to suggest that a Catholic organization, Catholic Charities, under that construct, has to offer services in their health care plan. I will agree she was the sole person but that is hardly striking down the rights of women to have contraceptive services. This was an infringement upon the Religious Liberty Protection Act.

I find it very interesting a lot of folks come in here with their scorecards. Well, she voted against consumers this many times, she voted against women this many times, she voted against this, as if judges are supposed to keep a scorecard as to who they vote for and against as opposed to following what the law says.

So if a consumer comes before a judge, they are supposed to be pro-consumer? If a business person comes before a judge, they are supposed to be pro-business? Is that what my colleagues want judges to do, have a scorecard and make sure they are 50–50 on all of these things?

These litmus tests that are being spewed from the other side are a complete undermining of what the rule of law is to be about, about what justice is to be about. They are infusing politics, policy, and partisanship in this process.

We must stop this. We must have up-or-down votes. I hope we do it in a way that does not force us to vote to do that.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Madam President, I commend the Senator from Pennsylvania on his remarks. For the moment that he is here, I want him to hear me say something.

I make the remarks I am about to make with a full understanding, were I in the minority party and this another day, I would need to make exactly the same speech and take exactly the same position. You see, I am new here, but I have learned something very quickly. The words you say today will be the words repeated to you tomorrow.

I learned something else. The genie came out of the bottle in the 108th Congress. Whether it was Democrats or Republicans, one day somebody would ultimately have to decide: Was the filibuster intended to be used on advice and consent?

With all due respect to everybody I have heard, it is just incorrect to say that to do away with the filibuster is going to make us a rubberstamp body.

Go ask Clarence Thomas if this place was a rubberstamp body, or Justice Bork. Think about the confirmations, most contentious in the last 20 years. Nobody invoked a filibuster. One of those justices was confirmed. One was not.

There are many responsibilities of the Senate that are designated in the Constitution. Impeachment is one. Whoever heard anybody filibustering an impeachment? Did you? The Constitution says the Senate will conduct that trial, as it says the Senate will advise and consent on treaties—by two-thirds majority. And on justices of the court—simple. It doesn't say maybe. It doesn't say if you feel like it. It is not even confusing. I have it in my pocket. I read it right before I came over here just to make sure I hadn't missed something because I heard twice today people say this document, the Constitution, doesn't say things that it does say.

I rise also, understanding how important the words are, because the second speech I made in the Senate, the first week of February this year, there was nobody in the Chamber. I've got a bigger crowd with the Senator from Pennsylvania than I had. It was early in the morning. It wasn't much of a gallery. I figured nobody was listening. The distinguished Democratic leader quoted me seven times since I made that speech.

I want to address that quote for a second.

You see, I told the story of being in Baghdad and talking to a Sunni, a Shiite, and a Kurd and asking the Kurd: Well, now that you are in the minority, aren't you scared the Shiites are going to run over you? And he said: Oh, no, we will use filibuster.

I thought that was a great remark. Here was a Kurd from the north of Iraq, in a place that had just won its liberty thanks to the blood, sweat, and tears of the United States of America, and he was reading Adams and Jefferson and studying us.

The next thing I know, the distinguished Mr. REID from Nevada says I said that to endorse a debate over whether or not the filibuster should be used on the confirmation of a judge.

I don't blame him. But just so the record is set straight, he is quoting a Kurd who read about America, who is in the process of writing their constitution which, I presume when it is finished, will provide for a filibuster over issues but not a filibuster to be used to obstruct the justice of the new democratic nation of Iraq.

I know my time is short. But I want to make some observations. I want to make my remarks in the context of Justice Brown. I know that Mrs. Owen is the current topic of discussion, about which at some point in time we hope there will be a vote, but Janice Rogers Brown is around the corner, and I felt like, after listening to all these debates, nobody is really talking about anybody's qualifications. Have you noticed that?

Even one of the deals that was offered was: tell you what, we will approve any five, you just give us two we are not going to approve.

Does that tell you they care anything about qualifications? Why, if you thought there was an unqualified judge, would you let the other side pick five and not pick two? I don't think qualifications are the issue. I understand that. That is another reason why I say this is not a superfluous argument, were we in the minority and it was still being decided, and had the roles been on the other side. And it is important that we decide it today.

Janice Rogers Brown was born in 1949 in the Deep South. I was born in 1944 in the Deep South.

When Janice Rogers Brown was born, I don't know that her parents ever envisioned that she would be a supreme court justice in the State of California. When I was born, I doubt my parents envisioned that I would be a Senator. However, in 1944, for a male white child born in the South, it was possible to be a Senator. In 1949, in the South, in Alabama or Georgia, it would not have

been possible for a parent to dream that for a female black child.

In my lifetime of studying this body, the most prevalent use of the filibuster was by southerners in the debates over the civil rights laws in the 1960s. The filibuster was used to protract the ultimate passage of those laws. It finally failed. Our country did what was right and those laws were passed.

I would hope that today the filibuster would not be used to deny an up-or-down vote on Janice Rogers Brown because every parent deserves to dream for every child that they will have the chance—not the guarantee—but the chance. These justices who have been nominated by our President deserve an up-or-down vote. No one in here has challenged anybody's right to vote yes or no. But they have challenged the fact that, yes, every one of them deserves a vote, and that is what this debate is all about.

So, as one who is new to this Chamber but understands how important this debate is, I rise to repeat that I will vote to support a vote, up or down, on every nominee. Understanding that, were I in the minority party and the issues reversed, I would take exactly the same position because this document, our Constitution, does not equivocate. It designates that responsibility to the Senate. I repeat, we are not breaking an old rule, we are addressing an issue that was raised in the last Congress as to where the filibuster would apply. It must be decided, and we must be diligent in our debate, respectful of the differences of opinions but, in the end, understanding of our responsibility as Members of the Senate and those elected to represent those who brought us here.

Madam President, I see my time is about up. If the Chair will inform me, I believe I have 2 minutes.

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. ISAKSON. I will close by going to a quote I heard earlier today by the distinguished Senator from Massachusetts, who talked about the history of judicial confirmation, and my understanding of history is the same as his. The distinguished Senator said the first two times our Founding Fathers worried about writing the Constitution, they were going to designate the appointment of judges to the Senate. It was only on the third meeting that, at the Constitutional Convention, they determined it be a joint responsibility: Nomination by the President, confirmation by the Senate.

The distinguished Senator is absolutely correct. He described it as a dual responsibility. It would be irresponsible for the Senate to avoid expressing itself in advice and consent on the qualification of any nominee. To do anything other than that which the Constitution designates to us would be to abrogate our responsibility. Our Founding Fathers were right over 200 years ago, and our leader, whom I commend, is right today. I hope when this debate ends, whether through negotiations or a vote, the men and women nominated to the Federal bench of the United States of America will know, not that they are guaranteed a judgeship, but they are guaranteed to know how the Members of the Senate voted on whether or not they would be confirmed.

I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. SCHUMER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Madam President, I yield myself 7 minutes and then will yield to the Senator from New Mexico 15 minutes immediately after me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Madam President, as most have said, we believe we have been more than fair. We have confirmed 95 percent of the President's judges. As I have said before, if my daughter came home with a 95 on her report card, I would say, great. What some on the other side want to say is this: Only got a 95? Break the rules and get 100.

We do not believe in that and would like to exhibit in the most graphic way how we have supported 208 of the 218 judges by doing something very simple—by reading the names of the 208 judges the President has nominated and gotten approved by this Senate.

1. Callie Granade, SD AL
2. Consuelo Callahan, 9th Cir.
3. David Bunning, ED KY
4. Dora Irizarry, USDC ED NY
5. Gary Sharpe, USDC ND NY
6. Henry Hudson, ED VA
7. James Gritzner, SD IA
8. Jeffrey Howard, 1st Circuit
9. John Roberts, DC Circuit
10. Julia S. Gibbons, 6th Cir.
11. Kurt Engelhardt, ED LA
12. Leonard Davis, ED TX
13. Margaret Rodgers, ND FL
14. Michael McConnell, 10th Cir
15. Paul Cassell, UT
16. Ralph Erickson, ND
17. Richard Holwell, SD NY
18. Robert Conrad, WD NC
19. Rosemary M. Collyer, DDC
20. Stanley Chesler, NJ
21. Thomas Phillips, ED TN
22. Walter Kelley, ED VA
23. William Smith, RI
24. C. Ashley Royal, MD GA
25. Clay Land, GA
26. Danny Reeves, ED KY
27. Diane S. Sykes; 7th Circuit
28. Frederick Martone, AZ
29. Henry Floyd, SC
30. James Gardner, ED of PA
31. Jay Zainey, ED LA
32. John Houston, SD CA
33. Judith Herrera USDC D NM
34. Kim Gibson, WD PA
35. Legrome Davis, ED PA
36. Marcia Krieger, CO
37. Michael H. Watson, SD OH
38. Paul A. Crotty, SD NY
39. Ralph Beistline, AK
40. Richard E. Dorr WD MO
41. Robert Clive Jones, NV
42. Ronald White, ED OK
43. Sharon Prost, Federal Circuit
44. Thomas Hardiman, WD PA
45. Virginia H. Covington, MD FLO
46. William Riley, 8th Circuit
47. Amy J. St. Eve, ND IL
48. Christopher Boyko, ND OH
49. D. Michael Fisher, 3rd Circuit
50. David Godbey, ND TX
51. F. Dennis Saylor IV, Mass.
52. Gregory Frost, ND OH
53. J. Ronnie Greer, WD TN
54. James Robart, WD WA
55. Joe Heaton, OK
56. Jose Linares, NJ
57. Kathleen Cardone, WD TX
58. Larry Hicks, NV
59. Louise W. Flanagan, ED NC
60. Micaela Alvarez, SD TX
61. Morrison England, ED CA

Madam President, I am illustrating how many judges—208 to 10—we have approved in this Senate, an outstanding 95-percent record, nothing that any President should complain about.

We will continue the reading later.

I yield the floor to my friend and colleague from New Mexico, Senator BINGAMAN.

Mr. BINGAMAN. Madam President, I thank my friend from New York and congratulate him on his leadership on this very important issue.

I find it very unfortunate that disagreements about judicial appointments have brought us to the point where the majority is ready to take away the longstanding right of each and every Senator to unlimited debate. That is a very major change in the way business has traditionally and historically been done in the Senate.

This is a confrontation that could easily have been avoided by the President and his legal counsel if they had been willing to follow what I understand to be the normal practice that historically has prevailed and should prevail. Someone asked: What is that normal practice? It is simply the practice of consulting with the Senators most involved in the nominating process before making a final decision on which individuals to nominate.

In the case of judicial nominees for Federal court positions in my State of New Mexico, and also positions to be filled on the Tenth Circuit Court of Appeals that are designated for New Mexico attorneys, I have been contacted, and I have been asked if I had objections to perspective nominees in each case before a final decision to nominate has been made. And that is not just in the last year or 2, this is over the 22-plus years I have served in the Senate. As far as I can remember, I have been afforded that courtesy each time. We, the Senate, have confirmed; and Presidents Reagan and Bush, Sr., and Clinton and now George W. Bush have nominated many individuals for the Federal court in my State during that time.

It is also my understanding that more often than not the chair and the

ranking member of the Judiciary Committee have been afforded that same courtesy prior to the nomination of individuals to court of appeals positions or to a Supreme Court position. Much of the current confrontation and rancor could have been sidestepped if that practice had been followed with respect to the nominees who are currently in dispute. Unfortunately, this President has chosen a different course.

Rather than consulting before a nomination is made, the White House has chosen to make nominations that it knows will be highly controversial, in some cases where it knows that the Senators from the nominee's State are strongly opposed to that nominee. Where nominations have been blocked during one Congress, the 108th Congress, last Congress, the President has chosen to renominate those same individuals in the succeeding Congress.

Madam President, this is not a strategy to unite rather than divide the country. This is a strategy to split and to polarize the Senate and the American people, and it is clearly having that exact effect.

Given where we are, I, like most of my colleagues, feel obliged to come to the Senate floor and speak on this so-called nuclear option. In my view, this is a misguided effort that will not only harm the Senate, it will also have a significant impact on the checks and balances that our Founding Fathers envisioned. I am disappointed that the majority leader has decided to pursue this course of action. I regret that he has repeatedly rejected the minority leader's offers to compromise on the issue.

There are two distinct issues I want to discuss briefly today. The first is the manner in which the change is being made, the idea that the majority can simply change longstanding Senate rules whenever it believes it would be expedient to do so. I find that notion deeply troubling. We are a nation of laws, and our institutions need to reflect this.

The second issue I want to discuss is the merits of the proposal and the impact of eliminating the ability to filibuster. The use of the filibuster not only ensures that minority views are respected in the Senate, it also plays an important role in checking the power of the executive branch and in ensuring that the judiciary remains independent.

Let me take a moment to briefly describe what this nuclear option entails. I recognize that discussing rules and procedures is not an exciting topic, but it is important that the American public understand precisely what is being done. This is not about whether every nominee should get an up-or-down vote. It is about whether it is acceptable for the majority party to disregard longstanding Senate rules in order to get its way in each and every case that comes before the Senate.

Senate rule V states that:

The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

In accordance with Senate rule XXII, any such change can only be made with the approval of two-thirds of all Senators elected. That is 67 Senators.

Requiring continuity of the rules from Congress to Congress, and requiring that changes to the rules meet a threshold vote well above a simple majority, has a very straightforward purpose. It ensures that the rules governing the Senate remain constant, that they are not changed whenever one party believes the rules are hampering their ability to get their way in the short term.

Some in the majority party have complained that it is necessary to change the rules with respect to use of the filibuster on judicial nominees because in their view the current 60-vote requirement to end debate is too high. I have no objection to debating that issue and bringing it to a vote. Indeed, throughout the Senate's history there have been a variety of proposals to modify the rules governing the filibuster.

For example, in 1975, the Senate reduced the number of votes required to end debate from 67 to 60. In 1995, I supported a proposal Senator HARKIN offered which did not pass but would have revised the procedure. So why is not the majority leader bringing this proposal, which he is now threatening to make, up for a vote under normal procedure? Simply put, he does not have the votes to pass the measure if we stick by the rules of the Senate, the 67-vote rules of the Senate.

So his proposal is simple: If you do not have the votes to pass the proposal using the rules as they exist, then make up your own rules so you can pass it. Under this procedural maneuver, if the Senate votes to not end debate on one of the disputed nominees, the majority leader intends to make a point of order requesting that the Presiding Chair, who will likely be the Vice President, rule that only 51 votes are needed to confirm appellate and Supreme Court nominees.

Now, all of us know, and it is very clear to everyone who has studied this issue, that is not what the Parliamentarian would rule. The Parliamentarian has said just the opposite. Democrats will object, but the ruling would be upheld by a simple majority vote. It is my understanding this would be the first time that we have changed the rules of the Senate without following the prescribed procedure for doing so in the rules that we have adopted. This would entail overruling the Senate Parliamentarian.

Madam President, I have to ask, what is the meaning of a rule if it is permissible to break it when one disagrees with the outcome that would result if the rule were followed? If the majority leader wants to try to modify the filibuster, he has the right to attempt that, but he should do so within the parameters of the Senate rules. It is dangerous to set a precedent of ignoring those rules that govern how we go about changing rules.

Indeed, if one rule can be changed this way with a simple majority vote, why not others as well?

The majority leader has argued that the Senate's record of processing the President's judicial nominees is so egregious that it justifies breaking the rules and disregarding over 200 years of precedent in order to get more nominees confirmed. Let's examine this record. My colleague from New York has already discussed at length the number of judges, appellate court judges, district court judges, we have approved in this Senate since this President has been in office.

We have the lowest vacancy rate in the Federal judiciary since President Reagan was in office. The Senate has confirmed 95 percent of the President's nominees. In addition, Democrats have offered to bring up several of the disputed nominees for consideration, which would bring the confirmation rate closer to 98 percent. Unfortunately, the majority leader has rejected that proposed compromise.

Some have also asserted that Democrats are charting new ground in filibustering judicial nominees. Frankly, this is just incorrect. It is contrary to the history of the Senate. Republicans did filibuster Abe Fortas in 1968 when he was nominated to be the Chief Justice of the U.S. Supreme Court. The filibuster was successful. He ultimately withdrew his nomination from consideration.

I agree we have an obligation to process the President's judicial nominees in a fair and judicious manner, and, as the record demonstrates, that is exactly what we have been trying to do.

However, I do understand the general frustration surrounding the processing of judicial nominees. During the Clinton administration, the Republican majority, during several of those years, killed over 60 nominees through a variety of delay tactics, mostly by refusing to give hearings in the Judiciary Committee. As a result, many of those nominees never got a chance to have a fair and open debate about their qualifications, much less a vote on the Senate floor.

I believe we should look for ways to improve the confirmation process so that it is conducted in a more bipartisan and constructive manner. But exercising the so-called nuclear option is not a step in the right direction. Let's be clear on what this is about. It is about setting the stage for the debate over the next Supreme Court Justice. It is about putting in place a procedure that would limit the ability of Democrats and moderate Republicans to influence the debate. There would be little need to consult or to compromise if the nominee could be pushed through the Senate with a straight majority vote.

As I have discussed, I strongly disagree with the tactics that have been

chosen here to make these changes. With regard to the merits of the proposal to eliminate the filibuster for judicial nominees, I would like to take a moment to elaborate on the profound implications of moving forward with this effort. I believe such a change would be not only detrimental to the Senate as an institution but will also result in significant deterioration of the checks and balances that ensure the independence of our judiciary.

Having a procedure in place that allows 40 Senators to keep a nominee or legislation from being adopted serves many purposes. Most important, it facilitates compromise by guaranteeing the minority a voice in the legislative process. Unlike in the House of Representatives, where legislation can be easily pushed through with a simple majority vote, the Senate is an institution where deliberation and compromise are absolutely essential.

Forcing Senators to achieve common ground in order to complete the people's work is something that should be encouraged. Bipartisanship has been in short supply in recent years, and we need to be looking for ways to work together to address the challenges we face in America.

I have had the privilege of representing the people of New Mexico for over 22 years now in the Senate. I recognize the importance of working across the aisle to achieve results. Earlier this week, we held the first of several hearings on comprehensive energy legislation to try to mark up legislation in that area. I am extremely encouraged by how members of the committee from both parties have been working together. It is my hope that bipartisanship and sense of compromise can be adopted elsewhere in the Senate. This exemplifies how we should be facilitating more compromise between the majority and minority parties.

The filibuster is not only an important check on the majority power within the Senate, but it is also an essential check on the executive branch. Article II, section 2 of the U.S. Constitution provides the Senate and the President shall share the power to appoint judicial nominees. The President is granted the authority to nominate. The Senate is vested with the authority to provide its advice and consent. This is a serious constitutional duty. I do not believe the Senate should be relegated to the role of a glorified rubberstamp. That is not what the American people want, not what the Founding Fathers envisioned.

The prospect of a filibuster forces the President to submit nominees to the Senate who will be able to garner the support of more than a simple majority of that President's own party. There are plenty of well-qualified, conservative lawyers and judges who would easily be confirmed by this Senate. In fact, the Senate has confirmed over 200 of them since this President has been in office. At the beginning of this Congress, the President chose to resubmit several of the most controversial nominees who lacked widespread support, rather than to heed the concerns that had been raised about their nominations. The Senate has coequal responsibilities in the appointment process. It is important for the administration to recognize this when it decides which nominees to send to the Senate for consideration.

Without the filibuster, the President would essentially be free to appoint whomever he wants to the Federal judiciary with very little restraint. This would threaten the independence of the judiciary, which is charged with checking the actions of the executive and legislative branches, by allowing a President to stack the courts with individuals willing to advance a particular agenda or ideology.

If the same party controls the Senate and the White House, as is the case today, the ability to filibuster is a primary restraint on the majority party of using its power in the nomination and confirmation process. As the Framers recognized, it is reasonable to require that a lifetime appointee have the support of a substantial percentage of Senators who have been elected.

There is a reason why the Framers granted the Senate and not the House of Representatives the constitutional authority to provide advice and consent. The Senate's procedures ensure extended debate and respect for minority views, which in turn facilitate compromise and moderation. I personally believe that having qualified and reasonable judges in the Federal judiciary, regardless of political party, who interpret the law objectively and in accordance with mainstream legal theory is a good thing. These are lifetime appointments, which deserve rigorous debate and substantial scrutiny. This scrutiny would be significantly diminished if the majority party could appoint whoever they want to the judiciary without concern for the views of the minority. And the independence of the judiciary would be threatened if judges approach their work with a particular concern for carrying out the will of the party in power at that moment.

It is not surprising that a President would seek to expand his authority in the appointment process. But it is disappointing to think that the Senate might accede to this and abrogate its own constitutional authority in exercising its obligation to provide advice and consent.

Lastly, the proponents of the nuclear option have said they only want to eliminate the filibuster with regard to nominees, not with regard to legislation. But nothing about their reasoning is unique to nominees. If this can be done with regard to judicial nominees, it can certainly be done with regard to executive branch nominees as well. And there is no logic for arguing it cannot be done with regard to legislation.

As I have stated, I have many concerns about employing this tactic and disregarding Senate tradition. I urge my colleagues across the aisle to seriously consider the ramifications of this so-called nuclear option. It is not good for the Senate, it is not good for the delicate checks and balances that govern our Government, and it is not in the interest of the American people.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I rise to speak against this so-called nuclear option. This is a sad day for the Senate because I believe we are about to fracture 200 years of precedent and tradition. I think we are about to fracture what I had hoped would be a bipartisan approach to solving the compelling problems we face in the United States of America, and the Republicans are about to change the rules in the middle of the game.

One of the hallmarks of the United States of America is always fair play. And fair play means a belief and respect for the rules because we are a nation that believes in rules and in the rule of law. Whenever we are in competitive situations, we believe in rules. You don't change the rules in the middle of the game. You don't change the rules in a game you are losing. But here especially there is no reason to change because the Bush administration is not losing. They have had more nominees confirmed than almost any other Administration in recent history.

This is a manufactured crisis. There are those who say there is a crisis in terms of confirming judges. There is no crisis. George Bush is not losing. Right now, right this minute, we have confirmed 208 of the President's nominees for the bench. That is a 95-percent confirmation rate. I would think that getting 95% of what you want would make you declare victory. But, oh, no, that is not good enough. There is a desire to change the rules so that the President gets 100% and we cannot exercise our constitutional responsibility of advise and consent.

Now I know that many of my colleagues on both sides of the aisle don't want to change the Senate rules. They know the ebbs and flows of this institution one day you are in the majority and the next in the minority. And they know its not fair to change the rules in the middle of the game because doing so undermines century of tradition and the very essence of the Senate as the world's premier deliberative body.

So I have come to the floor today to urge my colleagues to oppose this so-called nuclear option. I do this because I firmly believe in my heart of hearts that we must always have an independent judiciary and a judiciary that has been confirmed according to the traditional roles of the Senate. I know it is one of my foremost responsibilities as a member of the United States Senate to protect the independence and integrity of our federal courts. Because our courts are charged with safeguarding the very principles on which

our nation was built—justice, equality and individual liberty.

The courthouse door must always stay open. And when someone walks through that door, they must find an independent judiciary. In order to do that, we cannot turn the Senate into a rubberstamp for any administration. We must not compromise our constitutional checks and balances over 7 highly controversial judges. The American people deserve better and, and the Constitution requires it.

When Alexander Hamilton and others were at the Constitutional Convention inventing America, they wanted checks and balances. They wanted no one to have absolute power, they wanted no individual to have absolute power, and they wanted no institution within our Government to have absolute power. That is why we have the system of checks and balances. That is why the greatest check and balance is the advice and consent role given to the Senate. The President nominates and the Senate has an important co-equal role to play in the confirmation process.

So the Senate has a very real and critical role to play here. It can't rubber stamp nominees. It can't give consent without a thorough examination and it should not support nominees who don't respect basic judicial principles.

When we are talking about this, we say, What does it mean? Who has been nominated? Who has been confirmed? Whom have we opposed? I have given the statistics. Since the President has been in office the Senate has confirmed 208 of his nominees and rejected only 10. That's 95 percent approval and those we have rejected have been among the most controversial and extreme nominees. Nominees who did not represent the mainstream of American legal thought. Nominees hostile to civil rights, women's rights, reproductive rights and working families.

Let's talk about the 208. Let's talk about working on a bipartisan basis. Let's talk about Maryland.

There were three openings on the Federal bench in Maryland for the district court. Governor Ehrlich sent forth three names of outstanding people of judicial competency. Senator SARBANES and I moved them straightforward and ahead, even though one had been the chairman of the Republican Party. We did not care about that. Second, he had even run for attorney general. We did not care about that. What we cared about was that the Maryland Bar Association said he was qualified.

No. 2, he had been a U.S. attorney and had done a stunning job, and he had extensive legal background in Maryland. We did not play politics. We moved Judge Bennett, Judge Quarles, and Judge Titus.

Then came the court of appeals. Oh, my gosh, guess what came out of the Bush administration. They wanted to give us a guy who was not even a member of the Maryland bar. SARBANES and MIKULSKI said no. That is one of the ones that did not even come up. Why? We think if you are going to represent Maryland on the court of appeals, you ought to be a member of the Maryland bar and have some significant ties to Maryland. We threatened a filibuster.

This is the Maryland seat on the Fourth Circuit Court of Appeals. They wanted to give us someone from Virginia. We like Virginia, Senator WARNER, Senator ALLEN. We like judges from Virginia, but not for the Maryland seat. And Senator SARBANES and I said we would filibuster. So we stopped, prevent our state from losing its seat on the court of appeals because of the Senate rules.

Though some of them never came forth as nominees, we knew we had the rules of the Senate to prevent this injustice to Maryland. We invited the White House to look at the thousands of lawyers in Maryland who are members of the bar, who have judicial competence and judicial temperament and commitment to basic constitutional principles. Maryland would recognize them.

But we were ready to use these rules in the Senate to protect the Maryland seat and make sure whoever was on the court of appeals for the Maryland seat would at least be a member of the Maryland bar or at least be from Maryland and have significant ties there.

Those are the rules. That is how you exercise advice and consent. We gave advice, they ignored it, so they were not going to get our consent. Hey, those are the rules. We do not want those rules changed, and it would be the same if there was a Democrat in the White House.

We could look at the nominees President Bush has given us. Not only do we get people who are not members of a bar, but we get some who are outside the judicial mainstream.

Judge Priscilla Owen is an example of someone who would turn our courts in the wrong direction. She has a history of being driven by ideology and not law. Her beliefs are far outside the mainstream of judicial thinking. She has an extreme ideological agenda on civil rights, women's rights and the right to privacy that we severely question and make her unsuitable to sit on this federal court.

She is a judicial activist, that means she has a consistent pattern of putting ideology about the law and ignoring statutory language and substituting her own views. Something about which even officials in this White House have raised concern. Alberto Gonzales, now our Attorney General, who once served with her, called her dissent in a case ''unconscionable . . . judicial activism'' and in another case said her dissent would judicially amend the Texas statute. In other words, she was making law rather than interpreting law.

Her opinions show a bias against consumers, victims and individuals. She has consistently ruled against workers, accident victims and victims of discrimination. Her decisions impair the rights of ordinary people to have access to the courts. On the Texas Supreme Court she has restricted a woman's right to choose by ignoring statute and creating additional barriers for women seeking to exercise reproductive choice.

We could go through Owen, and we could go through others. Priscilla Owen stands among a handful of nominees who will turn back the clock on protecting important constitutional rights. We know through our examination of these nominees that they are outside the judicial mainstream, and we want to exercise our priority and our responsibility on advice and consent. And now Republicans want to focus on the jobs of 7 people who already have jobs when we have 7.7 million Americans who don't.

They want the change the subject away from issue that Americans care about to a handful of extreme judicial nominees. They say there is a crisis but there are more federal judges now than at any other point in our nation's history. This is the lowest vacancy rate on the courts in a decade. Republicans have the wrong priorities.

I had to explain what this nuclear option means to a head of state. Did you ever have to explain to someone who is a former head of a government in a European country, who himself fought for freedom and was a dissident and even in prison, what a nuclear option means? He thought we were talking about using nuclear weapons.

I had to explain this to members of my family, the senior citizens in my family. ''Barb, what is this nuclear option? Are we thinking about using nuclear weapons?'' We use language here very glibly, and I think exaggerated. What I said was we are headed for a meltdown. We cannot let the Senate melt down, and we will melt down if we do not stop these proceedings from going forth. We need to have an institution that functions on a bipartisan basis.

Some of the happiest and most distinguished accomplishments of my life have been accomplished because of working on a bipartisan basis. In the 1990s, I worked with the Senator from Colorado, Mr. Hank Brown, and we worked to bring Poland, Hungary, and the Czech Republic into NATO. We had to stand up to a Democrat such as Senator Moynihan and a Republican such as Senator WARNER to get the Senate to consider it, but we worked on a bipartisan basis, and we extended NATO from old Europe to a new Europe. And right now, the people we brought into NATO are fighting with us side by side in Iraq and are part of the coalition of the willing. Bipartisan relationships did that.

Because of our work in the Senate where the women get together at least once a month to have dinner for friendship and fellowship and to talk about

an agenda, we have done a lot on women's health. We have increased mammogram funding research by 700 percent. We have increased funding for domestic violence. We have done all this when we worked together.

My gosh, when we work together we work our best. Let us now stop this dangerous course. We should not continue further on this terrible down this path on which we are embarking. The American people want us to be standing up for jobs. They want us to be able to face straightforward the health care crisis, and they want to make sure we stabilize the pension crisis in the United States of America. Young people want to be able to afford college. They wonder what are we doing here. Republicans are spending all this time on the nuclear option and debating 7 controversial nominees instead of focusing on our national priorities. When all is said and done, is will be that more gets said than gets done?

Let's put the nuclear arsenal option back into the missile silo. We must do so to preserve the constitutional role of the Senate to advise and consent and protect our checks and balances.

Let's get back to doing the business of the people. The American people deserve that and they deserve a Senate that works for them. A Senate that governs best when it works together, and let's start putting the people first rather than politics.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, last week on Wednesday, we evacuated the Capitol. At the instruction of the Capitol Police, more than a few Senators and staff actually ran from this building and surrounding offices in the very real fear that a plane was carrying a bomb to attack this building, the center of our democracy.

Sadly, Wednesday was not the first time, and Wednesday will likely not be the last time, that we guard against threats to our democracy by plane or by bomb.

But there are other threats to our democracy and our freedoms just as menacing, equally as dangerous.

Abraham Lincoln said:

America will never be destroyed from the outside. If we falter and lose our freedoms, it will be because we destroyed ourselves.

Former Librarian of Congress Daniel Boorstin said:

It is not slogans or bullets, but only institutions that can make and keep people free.

And Baron Montesquieu wrote in ''The Spirit of the Laws'':

There is no liberty, if the judiciary power be not separated from the legislative and the executive.

The effort to break the rules to allow the President more easily to appoint judges that undermine the independence of the Federal judiciary is no less than a threat to our democracy, a threat to our freedoms, and a threat to our liberties.

For two centuries, Democrats and Republicans alike have used the Senate's rules to protect our democracy, to protect our freedoms, and to protect our liberties. After two centuries, it would be a mistake to change those rules.

Unlimited debate allows Senators to protect minority freedoms. Unlimited debate helps to ensure that no one party has absolute power. Unlimited debate helps to give effect to the Founders' conception of checks and balances.

History will see the actions of this month as what they are: A threat to those checks and balances. History will see the actions of this month as a terrible attempt to diminish the Senate. History will see the actions of this month as an attempt to diminish our democracy.

If those who seek to change the rules succeed, especially by breaking the rules, it will be only a matter of time before the next step comes. It will be only a matter of time before some future Senate leader decides to once again to break the rules to change the rules, and abolish the filibuster altogether.

And what will the Senate look like then?

Then all our votes will be simple majority votes. Then lost will be a centuries-old check and balance. And then what will be left will be a vastly different Senate from the one to which I came in 1978.

The majority leader has proposed that debate on important judges be limited to a fixed number of hours, to 100 hours. That might sound like a lot of time.

But the point is not the number of hours. The point is that at the end of a set amount of time, no Member of the minority party need participate. At the end of a set amount of time, only the majority party will rule. At the end of that set amount of time, there would be no more check and balance.

If one wants to see what the Senate will look like then, look at budget resolutions. Like the majority leader's proposed rule, they allow for a long period of debate. The leader's proposal calls for 100 hours of debate on judges. The Budget Act calls for 50 hours of debate on budgets.

Look at the results.

Rarely do budget resolutions achieve consensus. Since 1992, only one budget resolution has received more than 55 votes on final passage.

This year, the vote on the budget resolution was 52-to-47.

Last year, the disagreements on the budget were so partisan that the majority was not able to bring the conference report on the budget resolution to the floor in the Senate.

In 2003, the vote was as close as it could get: 51-to-50. The Vice President had to break the tie vote.

In 2002, once again, divisions were so partisan that the majority was not able to secure a majority in the Senate.

In 2001, the vote was 53-to-47

In 2000, the vote was 50-to-48.

In 1999, the vote was 54-to-44.

In 1998, the majority was once again unable to adopt a budget resolution.

And 1997 was the exception that proved the rule. That year, the budget resolution achieved a broad consensus, receiving a vote of 76-to-22.

But in 1996, the vote was 53-to-46.

In 1995, the vote was 54-to-46.

In 1994, the vote was 53-to-46.

In 1993, the vote was 55-to-45.

And in 1992, the vote was 52-to-41.

Thus, over 14 years, under Republican Presidents and a Democratic President, over the course of nearly a decade and a half, only one budget resolution has been the product of consensus. Fourteen years, and only one budget with more than 55 votes.

The time limit on debate has not led to working together. The time limit on debate has caused partisanship. And three times in the last decade, the time limit on debate has led to complete failure.

That is what would happen to the Senate if we head down this road. Votes would become more partisan, if that is possible, but it would happen. And the products of those votes would become more extreme.

If we head down this road for the confirmation of judges, then judges will be more partisan. Judges will be more likely to uphold the powers of the President who appointed them. And judges will be less likely to defend individual freedoms and liberties against the powerful executive.

Just think about that for a moment. Under this rule change, judges will be less likely to defend individual freedoms and liberties against the powerful executive. Why? Because of the partisan nature under which a partisan President will have appointed them.

The Senate's role in protecting against extremism is particularly important in the context of nominations for the lifetime jobs of Federal judges. The Founders wanted the courts to be an independent branch of Government, helping to exercise the Constitution's intricate system of checks and balances. The Senate's involvement in the confirmation of judges has helped to ensure that the judiciary can be that more independent branch. And that independence of the judiciary, in turn, has helped to ensure the protection of our democracy, our freedoms, and our liberties.

In ancient Rome, when the Senate lost its power, and the emperor became a tyrant, it was not because the emperor abolished the Senate. In ancient Rome, when the Senate lost its power, it continued to exist, at least in name. But in ancient Rome, when the Senate lost its power, in the words of the Senate's historian, Senator ROBERT BYRD, the Senate became ''little more than a name.''

In ancient Rome, when the Senate lost its power, the Roman Senate was complicit in the transfer. The emperor did not have to seize all the honors and

powers. The Roman Senate, one after another, conferred greater powers on Caesar.

It was not the abolition of the Senate that made the emperor powerful. It was the Senate's complete deference.

Like the Roman Senate before us, we risk bringing our diminution upon ourselves. We risk bringing upon ourselves a hollow Senate, a mere shadow of its past self. And we risk bringing upon ourselves a loss of the checks and balances that ensure our American democracy.

This change, if it succeeds, will leave Senators, as T.S. Eliot described in his 1925 poem, as ''The Hollow Men.'' In that poem, Eliot wrote of a place like what the Senate would become. He wrote:

''Our dried voices, when
We whisper together
Are quiet and meaningless
As wind in dry grass
This is the dead land
This is cactus land
In this hollow valley
This broken jaw of our lost kingdoms
In this last of meeting places
We grope together
And avoid speech
Gathered on this beach of the tumid river
This is the way democracy ends; this is the way democracy ends; this is the way democracy ends; not with a bomb, but a gavel.''

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, before the distinguished Senator from Montana departs, I want to thank him for obviously something that has been well thought out and deeply felt. He is a distinguished Senator who has served decades in the Senate and who has risen to the position as chairman of the Finance Committee. He understands the traditions and the comity of this institution in order for it to function. It clearly cannot function unless Senators can get along and trust each other, where Senators can have respect for one another, and where the minority is not run over all the time by the majority.

That is one of the great checks and balances of this constitutional system that we have. The rights of the minority are protected because of extended debate which, at the end of the day, encourages compromise and consensus building.

As the Good Book says: Come, let us reason together.

So I thank the Senator for his comments. I thank him for being a mentor to me, as I have so enjoyed his company and his leadership as well as the company of all these Senators. There is not a Senator here that I don't like. I like them all. I want to see this body continue to function as it has for 216 years, as the greatest deliberative body in the world. We are about to change that dramatically if this nuclear option is, in fact, employed.

I thank the Senator for his comments.

Mr. President, I want to add in my own little way a plea to the rest of the Senators. I have gotten into some of the discussions that are going on around this Capitol Building right now, to see if we can head off this thing. It doesn't look like we can. It looks like people are hardening into their positions. I wonder why. Is it worth changing over two centuries of history and precedent in the Senate for what, in effect, are five judges? Is it worth giving up the traditions and the protection of the minority, under the rules, for over two centuries for five judges?

I was surprised when I looked over the record and found out what my voting record has been here. I have voted, under President Bush, for 209 of his judicial nominees; I have voted against 7. That is 97 percent of the President's nominees for Federal judgeships that I have voted for. Am I not entitled, as the senior Senator from Florida, to exercise my judgment on seven people for a lifetime appointment as judge, when I don't think they have the judicial temperament in order to be judge for life? That is what the Senate is all about. That is what the Constitution said it is all about. It says that the judicial process is a two-step process. The President nominates and the Senate decides. In the old language of the constitutional forefathers it was ''advise and consent.''

My advice was, on seven, that I didn't think they had the judicial temperament, that they would look dispassionately at an issue, that they would look at the facts and apply the law. Those seven seemed to me to have their minds already made up.

That is not what I want in a judge. I want a judge who is going to be fair-minded, who is going to listen to all the nuances and make a fair and reasoned judgment.

I gave the President the benefit of the doubt on these 209. I can tell you, some of those were in Florida. On those I didn't give him the benefit of the doubt; those were good because in Florida we have a system whereby we have a judicial nominating commission, which is not by law but has been by custom over the years, and that judicial nominating commission receives the applications of people who want to be a Federal district judge, they interview them, and they make a recommendation to the Senators and to the White House. The arrangement that Senator GRAHAM and I had with the White House, with Alberto Gonzales, then the counsel for the White House, was that we would interview all of those recommended to us—sometimes it was three, sometimes it was six—for the vacancy, and we would tell the White House if we had an objection.

That has worked. On the judges from Florida that are within that 209 that I voted for, I can tell you they are good appointments.

But that was the give and take between the Senate and the White House in the filling of a judicial vacancy. That is not the ramming down your throat a judicial nomination just because the White House wants it.

I have agreed with the White House 97 percent of the time. You can calculate it mathematically, that is 97 percent of the time. So now they want to take away the right, under the rule, to filibuster so that no matter who comes in, they are going to be approved if they have 50 votes. It could be 50–50, because the tie would be broken with the Vice President sitting as the Presiding Officer of the Senate.

There is another reason that has just come to my attention why I do not want the filibuster to be eliminated from this particular set of judges. If it is done for this, what is next? What is next? That the majority leader would stand and take away the filibuster and my right to filibuster as a Senator? Is he going to do that on what the administration is bent on doing, and that is drilling for oil and gas off the coast of Florida—drilling for what 18 million Floridians are deathly afraid of; that the $50 billion a year tourism industry is going to be threatened because of oil lapping up onto our beaches?

Are they going to take away my right to stand out here and hold up such legislation, to drill off the coast of Florida, that would despoil our environment? Are they going to take away my right to protect our military assets, an asset that is so valuable it is called restricted airspace? It is out in the Gulf of Mexico and portions of the Atlantic Ocean off Florida, which is why we have so much training in Florida. The pilots can go out there in that restricted airspace. Are they going to take away my right to utilize the filibuster to protect the interests of Florida?

It is obvious that today they have started trying to drill off the coast of Florida. Two weeks ago, I had a meeting with the Secretary of the Interior, and I pleaded with her, as she had agreed back in 2001, that she would not include within the 5-year plan that there would be drilling further, other than what was the agreement back in 2001, to extend an additional 1.5 million acres for oil and gas leasing, and it started to intrude into the eastern Gulf of Mexico. She promised it in the 5-year plan which was from 2002 to 2007. So when I met with her 2 weeks ago I asked her to give me that——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON of Florida. I ask for an additional 5 minutes to proceed.

Mr. REID. It is my understanding the majority leader is on his way. I have no problem with the Senator speaking and the same time would be extended to the majority.

Mr. KYL. Reserving the right to object, I was going to speak at 6 o'clock. My understanding is the minority leader and the majority leader wanted to intercede with a brief colloquy or comments. In order for my scheduling purposes, I would like to know what the

timing then might be. Can the distinguished minority leader give me some idea?

Mr. REID. The Republican leader is going to come to the floor and talk about what the schedule will be the next couple of days. It should not take long. I ask when he shows up that the distinguished Senator from Florida yield to the majority leader.

Mr. NELSON of Florida. Of course.

Mr. REID. We get 5 minutes, they get 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida is recognized for an additional 5 minutes.

Mr. NELSON of Florida. This filibuster issue is so important to me as I project how it can be taken away from me as I try to protect the interests of Florida.

I was about to point out that although the Secretary of the Interior 2 weeks ago, when I requested in the next 5-year plan that she extend the same protections of no additional drilling in the Gulf of Mexico off of Florida, would not give me that assurance.

I now see, as the result of a vote today in the House of Representatives, an amendment offered for oil and gas drilling off of the State of Florida. It may have been this amendment, may have been just for gas drilling. That is the proverbial camel's nose under the tent.

All drilling, happily, in that amendment failed in the House of Representatives, but the Bush administration's intent is now clear since the Secretary of Interior would not give me that assurance that she gave me back in 2001. It is their intent to start drilling off the coast of Florida in the Gulf of Mexico, which brings me back to the filibuster.

I don't want to lose this precedent of 216 years in the Senate, to lose this right of a filibuster. If we do it with regard to these judges, then what is coming next, they will take away our right to stand up here for the interests of our States?

This is a matter of tremendous gravity. It affects all of us.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAMBLISS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Arizona is recognized.

Mr. KYL. Might I inquire of the distinguished minority leader, the majority leader will be here shortly?

Mr. REID. A few minutes ago he said he was on his way.

Let me say, one of the distinguished clerks, without divulging a person's name, said that when Senator FRIST and I talk about coming to the floor, it is dog time, meaning every minute is 7 minutes, so you never know.

Mr. KYL. Mr. President, I will go ahead and in between the sandwich we will have the meat which will be the conversation between the two leaders, but I will proceed with my remarks.

Now I am told the leader is indeed on his way, so I will suspend and yield to the distinguished majority leader.

The PRESIDING OFFICER (Mr. CHAMBLISS). The majority leader is recognized.

Mr. FRIST. Mr. President, many Members have been inquiring about the schedule, but I do want to thank all Senators for their statements today, as well as yesterday. The debate time has been evenly divided. We have heard from a number of people. This is our second day of debate on the nomination of Priscilla Owen for the Fifth Circuit Court. We have not had very much in the way of pauses in the debate. We have used floor time well. And from both leaders, we thank everybody for their participation and cooperation. It has been a constructive debate.

Tomorrow, we will resume debate. We will be continuing debate tonight, but for people's planning purposes, tomorrow we will resume debate on Priscilla Owen, and it would be my intent to ask consent for some limitation of time before we vote on the Owen nomination. If we are unable to reach an agreement, I would then file a cloture motion tomorrow, on Friday.

On Monday, we would return to session and continue the debate on Priscilla Owen, much in the same vein it has been yesterday, today, and will be tomorrow. I encourage, once again, our colleagues to take advantage of the opportunity to speak. The reason we are spending the time is to make sure all ideas and thoughts and concerns are expressed.

The Democratic leader and I have discussed this, and we will have a vote on Monday at approximately 5:30. It will be a procedural vote. I anticipate it will be—we will say 5:30 now. Senators should return for debate on this vote. On Monday, Senators will have as much time as they need to debate the pending nomination. We will file cloture tomorrow, and then we would have the cloture vote on Tuesday. And the timing of that vote is something the Democratic leader and I have not talked about but will do so and make our colleagues aware.

With that understanding—and that is the plan—we will have no further votes this evening. And we would have no votes tomorrow as well but continue debate.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, very briefly, before I address the primary subject of my presentation, I would like to do two things. First, I ask unanimous consent to have printed in the RECORD, after my remarks, the Washington Times oped piece by a former majority leader of the Senate, Bob Dole, dated Thursday, May 19, 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KYL. Secondly, I would like to very briefly remind my colleagues of the fact that when we talk about the numbers of judges President Bush has nominated who have been confirmed, it is important for us to remember that there has never been any controversy with respect to district court judges. Almost all Presidents' district court judges are confirmed. Those are recommended for nomination usually by Members of the Senate, and it is rare, indeed, that we would object to each other's recommendations. Instead, for all Presidents there is a very high number of district court judges confirmed. And indeed, that was the case with President Clinton and has been the case so far with President Bush.

So when talking about the numbers of judges confirmed, and wondering what the fuss is all about, our constituents might want to focus on the fact that what the other side usually does not talk about is the fact that the judges that are not being confirmed are circuit court judges. These are the judges directly below the U.S. Supreme Court. There are not very many of them. They are very important. And these are the judges who are being filibustered by the minority.

How many? Well, in the case of President Bush, in his first term—and none have been confirmed now at the beginning of his second term, so this is the full story—35 of the President's 52 nominees have been confirmed. That is only a confirmation rate of two-thirds or 67 percent. And that puts that at the lowest percentage of any President in our modern history. This chart says ''ever.'' And that is what we are talking about here, the 10 filibusters and 6 other threatened filibusters last year of the President's circuit court judges who have been filibustered and, as a result, have never received an up-or-down vote. That is what is troubling us.

So I want folks to understand that instead of talking about almost 200 judges confirmed, and only a very few rejected, what we are talking about is the circuit court judges. And of those, only 35 of 52 have been confirmed. That is what this is all about. And these are the judges directly below the position of the U.S. Supreme Court.

What I want to talk about today is a very simple and yet a very momentous question. Does the Senate have the power to govern itself? Does the Senate have the power to govern itself? Specifically, can a majority of the Senate establish how we are governed? I have heard a lot of careless talk over the last few months and days. Some have charged the Senate will soon break the rules to change the rules and destroy the Senate as we know it. Some Senators claim the Senate is about to abdicate all constitutional responsibility, is becoming a rubberstamp. Others

raise the specter of lawlessness and banana republics. Worst of all, Senators speak figuratively of detonating nuclear bombs and shutting down the Senate's business.

This kind of hysteria does a tremendous disservice not only to the Senate but to our Nation as a whole. Not only are the claims blatantly false, but they add to the already unacceptable level of incivility in our political affairs. It is often said we should disagree without being disagreeable. That is a sentiment with which I wholeheartedly concur. A good first step would be for my colleagues to stop making outrageous claims that Republicans want to destroy this institution.

The reality is the Senate is now engaged in a historic debate and, I believe, a historic effort to protect constitutional prerogatives and the proper checks and balances between the branches of our Government.

Republicans seek to right a wrong that has undermined 214 years of tradition—wise, carefully thought out tradition. The fact that the Senate rules theoretically allowed the filibuster of judicial nominations, but were never used to that end, is an important indicator of what is right and why the precedent of allowing up-or-down votes is so well established. It is that precedent that has been attacked and which we seek to restore.

Fortunately, the Senate is not powerless to prevent a minority from running roughshod over its traditions. It has the power—indeed, I would say the obligation—to govern itself. As I will demonstrate today, that power to govern itself easily extends to the device that has come to be known as the constitutional option.

The Constitution is clear about the scope of the Senate's power to govern itself. Article I, section 5, clause 2 of the Constitution states that each House may determine the rules of its proceedings.

The Supreme Court of the United States has rarely interpreted this clause, but one case is important for our purposes, the case of the United States v. Ballin, a case decided in 1892. That case dealt with the power of the majority of the House of Representatives to make rules, and it contains two holdings that bear on our situation today.

First, the Supreme Court held that the powers delegated to the House or the Senate through article I, section 5, clause 2 are powers held by a simple majority of the quorum. The Constitution states that a majority of Members constitutes a quorum, and the Supreme Court, therefore, held that ''when a majority are present the house is in a position to do business.''

The Supreme Court continued:

All that the Constitution requires is the presence of a majority.

Thus, a majority is all the Constitution requires for us to make rules, to set precedents, and to operate on a day-to-day basis. The Supreme Court made this clear.

Second, the Supreme Court held that the power to make rules is not one which, once exercised, is exhausted. It is a continuous power, always subject to being exercised by the House. By ''House,'' the court means the House of Representatives or the Senate. The import of this statement is crucial for present purposes. The power of the majority of Senators to define Senate procedures is one that exists at all times, whether at the beginning, the middle, or the end of Congress.

The constitutional background is simple and uncomplicated. We can govern ourselves. We can do it by majority vote, and we can do it at any time. Let me repeat: The Supreme Court has held that we have the right to govern ourselves, that we can do it by majority vote, and we can do it any time.

Let's look at how the Senate employs its constitutional power to govern itself. There are four basic ways that the Senate does so: In standing rules, precedents, standing orders, and in rulemaking statutes. I will discuss each briefly in turn.

First, the Senate has adopted standing rules to govern some but not all Senate practices and procedures. I have seen much confusion in the press and even, sadly, in this body about those standing rules. Some argue that the standing rules are the be-all and end-all of Senate practice and procedure. The confusion might be understandable outside the Senate, but Senators know that these rules are but one aspect of the overall set of tools, the broader rules that the Senate uses to govern itself.

That brings us to the second way the Senate exercises its constitutional power: the creation of precedents. Precedents are created whenever the Presiding Officer rules on a point of order, when the Senate sustains and/or rejects an appeal of the Presiding Officer's ruling on a point of order, or when the Senate itself rules on a question that has been submitted to it by the Presiding Officer.

As former Parliamentarian and Senate procedural expert Floyd Riddick has said:

The precedents of the Senate are just as significant as the rules of the Senate.

Let me repeat what Mr. Riddick said:

The precedents of the Senate are just as significant as the rules of the Senate.

Indeed, as we will see, precedents have sometimes been created that directly contradict the Standing Rules of the Senate. I will return to that point later, but I want everyone to remember what Mr. Riddick said.

A third way that the Senate exercises its constitutional power is through standing orders which can be adopted by legislation, Senate resolutions, or run-of-the-mill unanimous consent agreements. It is worth pausing to note that the Senate regularly overrides the standing rules and precedents of the Senate through unanimous consent agreements. You saw that a few minutes ago. Our leaders get together and decide, for example, to change the time to hold a cloture vote, even though rule XXII mandates that the vote shall occur 1 hour after the Senate comes into session on the second day after the cloture petition is filed. Yet the leaders move the votes in direct contradiction of the rules.

Of course, a unanimous consent agreement is formalistically unanimous. But that temporary rule change, if you want to call it that, is done completely outside the standing rules.

How can we do this? How can the Senate ignore the Standing Rules of the Senate? The answer is simple. It goes to the essence of the situation before us today. As the Supreme Court held, the Constitution gives the Senate the power to make rules and govern itself on a continuous basis. We are not held hostage to the standing rules, nor are we required to go through the cumbersome process of amending the standing rules when it is necessary to get something done. This has always been true.

A fourth way that the Senate exercises its constitutional power is through rulemaking statutes. For example, for 30 years the Budget Act has been placing severe restrictions on the rights of Senators to debate. Indeed, the Congressional Research Service has identified 26 rulemaking statutes that somehow limit the ability of individual Senators to debate and/or amend legislation. Think about that for a moment. We hear much pontificating on this floor about the supposedly sacred and untouchable right of Senators to debate on an unlimited basis. Yet, arguably, our most important function, that of ensuring that government services are budgeted and receive funding, is subject to carefully crafted restrictions of that right of debate. We have 50 hours of debate, followed by a majority vote, period. For generations, Senators have judged some limits on debate are necessary just as a matter of common sense. This is one of them.

Parenthetically, no matter how many times a few Senators say otherwise, this controversy before us now has nothing whatsoever to do with free speech, as the minority leader himself has acknowledged. This dispute has never been about the length of debate. It is about blocking judicial nominees. We will have plenty of debate on all of the nominees, as much as anyone wants.

I would like to move to another important aspect of this discussion: The role of tradition and norms of conduct in the day-to-day functioning of the Senate. This is crucial. Although it is frequently said that the unique features of the Senate are individual Senator's rights to demand and amend, there is another even more central aspect to Senate procedure. As I see it, the overriding feature of the Senate is the mutual self-restraint and respect for the settled norms of this body. I would like to consider a few examples.

Senators limit their speech on an informal basis every day. We cut short

remarks so that others can speak. We did that a few moments ago. We acquiesce in unanimous consent agreements that will have the effect of denying ourselves any chance to speak on a subject. We decline to object to procedural unanimous consent requests even though we might have good reason to want to slow down Senate business. We acquiesce in our leader's floor schedule. We work with bill managers to limit amendments so that the Senate can function, so that each individual Senator's rights do not become an impediment to the task of governing. Senators have rights, but we also have obligations to each other and to the Nation.

So we limit our rights on the basis of mutual respect and a belief in good government but, candidly, also out of fear of retaliation. If I assert my rights too forcefully, I not only disrespect my colleagues, but I threaten my own public policy goals. The result is a complicated mutual truce of sorts that allows us to do the people's business in an orderly way. In a word, we gain institutional stability.

In short, the Senate is institutionally stable, not just because of rules, precedents, or the standing order, or the rulemaking statutes I discussed. The body is stable because we respect each other's prerogatives. We understand that any breach of the truce will produce a reaction. And it is that basic understanding of physics, action, and reaction, coupled with a genuine goodwill that allows us to function even with the many individual rights that we possess. The rights only work because we so often choose not to exercise them. So it is not just rights that define the Senate but also restraint.

Which brings us back to the filibuster of judicial nominations. It is certainly the case that the Standing Rules of the Senate do countenance the filibuster of judicial nominations, but it is equally the case that the longstanding norms of the Senate do not. Until 2003, no judicial nominee with demonstrable support of a majority of Senators had ever been denied an up-or-down vote on the Senate floor through a filibuster. Even on the rare occasions where there were attempts, they failed on a bipartisan basis. And why? Because the filibuster of judicial nominations used as a minority veto was not part of our tradition and never had been. Again, out of respect for fellow Members, for the President, and for the judiciary, and out of a recognition of the long-term impact of such tactics, the Senate had always declined to march down this path.

When I entered the Senate in 1995, I had grave concerns about some of more activist nominees that President Clinton sent to us.

But I listened to Chairman ORRIN HATCH, Majority Leader TRENT LOTT, and many others. They taught that we had a longstanding Senate tradition against blocking Senate nominations by filibuster. So I joined Democrats and Republicans alike in making sure there were no filibusters.

Ironically, some point to those successful cloture votes for confirmed judges and claim those nominees were filibustered. Well, all that establishes is that both parties ensured a supermajority to end debate, precisely to adhere to historical norms. We took the steps to ensure those judicial nominees who reach the Senate floor received the fair up-or-down votes to which they were entitled. Again, the standing rules might have permitted such obstruction, but the Senate norms and traditions did not.

To the extent the rules technically permitted such obstruction, the traditions had rendered the power obsolete and inert. In common law, there is a doctrine called desuetude, which means that obsolete or unenforced laws shall not have effect in the future even if not formally repealed. In other words, a law that is de facto unenforced may be treated as ineffective de jure as well.

We faced a similar situation in the Senate. In fact, our tradition was our rule. To minimize the traditions of this body is to display a naive and legalistic misunderstanding of the institution. To say we are a body of traditions is meaningless if we do not acknowledge that our traditions have content and meaning. There can be no question that the filibusters of the last Congress broke that Senate tradition and, therefore, the set way this body had governed itself. By breaking traditions of the Senate, members of the minority should have known they would force the Senate to react. Tradition should never change without consensus, and a consensus requires, at a minimum, a majority. The question is, what are we to do when norms and traditions are changed by the minority? What do we do when there is no consensus, just a minority with a determination to exploit dormant rules to further partisan end? The Senate can do one of two things: Let our traditions be transformed and permit rule by minority or we can insist that the Senate maintain traditional norms and take action to protect them.

That brings us to the constitutional option itself. The constitutional option is nothing more than the Senate governing itself, as the Constitution provides, by acts of majorities of Senators. The Senate has been in this situation before 4 times over a 10-year period, when the Senate majority reacted to a minority using rules that had not traditionally been used to obstruct Senate business. My colleague Senator MCCONNELL will discuss each instance in depth. I address one in particular by way of illustration.

In 1977, two Senators attempted to block a natural gas deregulation bill after cloture had already been invoked. They were succeeding through a strategy of ''filibuster by amendment.'' Post-cloture debate time had lapsed, but the obstructing Senators could still call up amendments, force quorum calls, and force rollcall votes on the amendments. Rule XXII prohibited dilatory or nongermane amendments, but Senate procedure did not rule these amendments out of order. True, a Senator could raise a point of order against one of these dilatory amendments, but any favorable ruling could be appealed. A rollcall vote could then be demanded on that appeal. And once that rollcall vote began, the obstructing Senators could accomplish their slowdown in a different way—filibuster by rollcall vote. To make matters worse, in 1977, before any point of order could even be made against an amendment, the amendment in question had to be read by the clerk. By objecting to the routine courtesy of waiving the reading of the amendment, the obstructing Senators delayed the business of the Senate even further.

That all may seem complicated, but there is one undeniable truth about what these obstructing Senators were doing. It was all completely permitted under the standing rules and the precedents of the Senate. At the same time, however, these tactics were in violation of settled Senate norms and practices. So what was the Senate to do?

The answer came when the then-Democratic majority leader made the decision these new tactics were dilatory, in violation of the traditional norms, and could no longer prevail. He asked then-Vice President Walter Mondale to sit in the chair in his capacity as President of the Senate. The Democratic majority leader made a point of order that ''when the Senate is operating under cloture, the chair is required to take the initiative under Rule XXII to rule out of order all amendments that are dilatory or which on their face are out of order.'' Mondale sustained the point of order, even though it had no foundation in the rules or precedents of the Senate. Another Senator appealed the Mondale ruling, and the Democratic majority leader moved to table. The Senate then voted to table the appeal. In doing so, the Senate created a new precedent. But that precedent ran directly contrary to the Senate's longstanding procedures which had required Senators to raise points of order to enforce Senate rules. Under the new precedent established by the Senate, no such point of order would be necessary.

Again, this may seem complicated, but these small changes had dramatic effects. The Democratic majority leader began to call up each of the dilatory amendments so the Chair could rule them out of order. One by one, the Chair obliged. Under normal circumstances, an appeal would have been in order, but the majority leader exercised his right of preferential recognition to block any appeal. He quickly called up every remaining amendment, Vice President Mondale ruled them out of order, and all of the amendments were disposed of.

Nearly 20 years later, the Senator who orchestrated those events in 1977

explained to the Senate what he had done. He explained:

I asked Mr. Mondale, the Vice President, to go please sit in the chair; I wanted to make some points of order and create new precedents that would break these filibusters. And the filibuster was broken—back, neck, legs, and arms. So there should be no confusion about what happened on that day.

That was the constitutional option in action. The Senate faced a situation where a minority of Senators was frustrating Senate business in an untraditional way. The majority wished to proceed. The majority did not propose any formal rules change, refer the proposal to the Rules Committee, wait for its action, and then bring it to the floor under rule XXII's cloture provisions for such rule change proposals. That procedure was not followed. Instead, the majority leader recognized that the Senate had the constitutional power to bypass that route, which is exactly what the Senate did.

As I mentioned earlier, that same Democratic leader would create several other precedents while serving as majority leader, in each case because he concluded the existing standing rules and precedents of the Senate were inadequate, and that a majority of Senators had the power to alter the way the Senate governs itself. In 1979, for example, a new precedent was created to prevent legislation on appropriations bills, in direct contravention of the text of the standing rules at that time. In 1980, the Senate used the constitutional option to eliminate the ability to debate and filibuster the motion to proceed to a particular item on the Executive Calendar. That situation is remarkably similar to the one we face today. In 1987, in a complicated set of maneuvers, the Senate created new precedents to limit minority rights and declare that certain dilatory tactics during the morning hour were out of order.

I will not examine each of these historical events in detail today. Instead, I ask unanimous consent to have printed in the RECORD a copy of the policy paper prepared by the Republican Policy Committee, which I chair, which examined each of these events in great detail.

There being no objection, the material was ordered To be printed in the RECORD, as follows:

THE SENATE'S POWER TO MAKE PROCEDURAL RULES BY MAJORITY VOTE

INTRODUCTION

In recent months, there has been growing public interest in the Senate's ability to change its internal procedures by majority vote. The impetus for this discussion is a Senate minority's use of the filibuster to block votes on 10 judicial nominations during the 108th Congress. Until then, a bipartisan majority of Senators had worked together to guarantee that filibusters were not to be used to permanently block up-or-down votes on judicial nominations. For example, as recently as March 2000, Majority Leader Trent Lott and Minority Leader Tom Daschle worked together to ensure that judicial nominees Richard Paez and Marsha Berzon received up-or-down votes, even though Majority Leader Lott and most of the Republican caucus ultimately voted against those nominations. But that shared understanding of Senate norms and practices—that judicial nominations shall not be blocked by filibuster—broke down in the 108th Congress.

This breakdown in Senate norms is profound. There is now a risk that the Senate is creating a new, 60-vote confirmation standard. The Constitution plainly requires no more than a majority vote to confirm any executive nomination, but some Senators have shown that they are determined to override this constitutional standard. Thus, if the Senate does not act during the 109th Congress to restore the Constitution's simple-majority standard, it could be plausibly argued that a precedent has been set by the Senate's acquiescence in a 60-vote threshold for nominations.

One way that Senators can restore the Senate's traditional understanding of its advice and consent responsibility is to employ the ''constitutional option''—an exercise of a Senate majority's power under the Constitution to define Senate practices and procedures. The constitutional option can be exercised in different ways, such as amending Senate Standing Rules or by creating precedents, but regardless of the variant, the purpose would be the same—to restore previous Senate practices in the face of unforeseen abuses. Exercising the constitutional option in response to judicial nomination filibusters would restore the Senate to its longstanding norms and practices governing judicial nominations, and guarantee that a minority does not transform the fundamental nature of the Senate's advice and consent responsibility. The approach, therefore, would be both reactive and restorative.

This constitutional option is well grounded in the U.S. Constitution and in Senate history. The Senate has always had, and repeatedly has exercised, the constitutional power to change the Senate's procedures through a majority vote. Majority Leader Robert C. Byrd used the constitutional option in 1977, 1979, 1980, and 1987 to establish precedents changing Senate procedures during the middle of a Congress. And the Senate several times has changed its Standing Rules after the constitutional option had been threatened, beginning with the adoption of the first cloture rule in 1917. Simply put, the constitutional option itself is a longstanding feature of Senate practice.

This paper proceeds in four parts: (1) a discussion of the constitutional basis of the Senate's right to set rules for its proceedings; (2) an examination of past instances when Senate majorities acted to define Senate practices—even where the written rules and binding precedents of the Senate dictated otherwise; (3) an evaluation of how this history relates to the present impasse regarding judicial nomination filibusters; and (4) a clarification of common misunderstandings of the constitutional option. The purpose of this paper is not to resolve the political question of whether the Senate should exercise the constitutional option, but merely to demonstrate the constitutional and historical legitimacy of such an approach.

THE CONSTITUTION: THE SENATE'S RIGHT TO SET PROCEDURAL RULES

The Senate's constitutional power to make rules is straightforward, but two issues do warrant brief elaboration—the number of Senators that are constitutionally necessary to establish procedures and whether there are any time limitations as to when the rulemaking power can be exercised.

The Supreme Court addressed both of these questions in United States v. Ballin, an 1892 case interpreting Congress's rulemaking powers. [144 U.S. 1 (1892).] First, the Court held that the powers delegated to each body are held by a simple majority of the quorum, unless the Constitution expressly creates a supermajority requirement. [Ballin, 144 U.S. at 6. There is no serious disagreement with the Supreme Court's conclusion in Ballin. Indeed, Senator Edward Kennedy has said that only a majority is necessary to change Senate procedures. Congressional Record, Feb. 20, 1975, S3848. Senator Charles Schumer conceded during a Judiciary subcommittee hearing on the constitutionality of the filibuster that Senate rules ''could be changed by a majority vote.'' S. Hrg. 108–227 (May 6, 2003), at 60.] The Constitution itself sets the quorum for doing business—a majority of the Senate. [U.S. Const., art. I, 5, cl. 1.] Second, the Supreme Court held that the ''power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the house.'' [Ballin, 144 U.S. at 5.] Thus, the Supreme Court has held that the power of a majority of Senators to define the Senate's procedures exists at all times whether at the beginning, middle, or end of a Congress.

The Senate majority exercises this constitutional rulemaking power in several ways:

First, it has adopted Standing Rules to govern some Senate practices and procedures. Those rules formally can be changed by a majority vote. Any motion to formally amend the Standing Rules is subject to debate, and Senate Rule XXII creates a special two-thirds cloture threshold to end that debate.

Second, the Senate operates according to Senate precedents, i.e., rulings by the Chair or the Senate itself regarding questions of Senate procedure. A precedent is created whenever the Chair rules on a point of order, when the Senate sustains or rejects an appeal of the Chair's ruling on a point of order, or when the Senate itself rules on a question that has been submitted to it by the Chair. [Floyd M. Riddick, Senate Parliamentarian, Oral History Interviews (November 21, 1978), Senate Historical Office, Washington, D.C., at 429.] As former parliamentarian and Senate procedural expert Floyd M. Riddick has said, ''The precedents of the Senate are just as significant as the rules of the Senate.'' [Riddick interview at 426.]

Third, the Senate binds itself through rulemaking statutes that constrain and channel the consideration of particular matters and guarantee that the Senate can take action on certain matters by majority vote. At least 26 such rule-making statutes govern Senate procedure and limit the right to debate, dating back to the 1939 Reorganization Act and including, most prominently, the 1974 Budget Act. [Martin B. Gold, Senate Procedure and Practice (2004), at 5. For a complete list of the 26 statutes that limit Senate debate, see John Cornyn, Our Broken Judicial Confirmation Process and the Need for Filibuster Reform, 27 Harv. J. L. Pub. Pol'y 181,213–214 (2003).]

Finally, the Senate can modify the above procedures through Standing Orders, which can be entered via formal legislation, Senate resolutions, and unanimous consent agreements.

It is important to emphasize, however, that these rules are the mere background for day-today Senate procedure. As any Senate observer knows, the institution functions primarily through cooperation and tacit or express agreements about appropriate behavior. Most business is conducted by unanimous consent, and collective norms have emerged that assist in the protection of minority rights without unduly hindering the Senate's business.

Consider, for example, the Senate's contrasting norms regarding the exercise of individual Senators' procedural rights. Under the rules and precedents of the Senate, each Senator has the right to object to consent requests and, with a sufficient second, to demand roll call votes on customarily routine motions. If Senators routinely exercised those rights, however, the Senate would come to a standstill. Such wholesale obstruction is rare, but not because the Senate's standing rules, precedents, and rulemaking statutes prohibit a Senator from engaging in that kind of delay. Rather, Senators rarely employ such dilatory tactics because of the potential reaction of other Senators or the possibility of retaliation. As a result, informed self enforcement of reasonable behavior is the norm.

At the same time, some ''obstructionist'' tactics have long been accepted by the Senate as features of a body that respects minority rights. Most prominent is the broadly accepted right of a single Senator to speak for as long as he or she wants on pending legislation, subject only to the right of the majority to invoke cloture and shut off debate. Indeed, an overwhelming and bipartisan consensus in support of the current legislative filibuster system has existed for 30 years. [Standing Rule XXII's standard for cloture—three-fifths of Senators ''duly chosen and sworn''—has been in effect since 1975.] Thus, the norms of the Senate tolerate some, but not all, kinds or degrees of obstruction.

Thus, while written rules, precedents, and orders are important, common understandings of self-restraint, discretion, and institutional propriety have primarily governed acceptable Senatorial conduct. It is the departures from these norms of conduct that have precipitated institutional crises that require the Senate to respond.

THE HISTORY: THE SENATE'S REPEATED USE OF THE CONSTITUTIONAL OPTION

The Senate is a relatively stable institution, but its norms of conduct have sometimes been violated. In some instances, a minority of Senators has rejected past practices and bipartisan understandings and exploited heretofore ''off limits'' opportunities to obstruct the Senate's business. At other times, a minority of Senators has abused the rules and precedents in a manner that violates Senators' reasonable expectations of proper procedural parameters. These are efforts to change Senate norms and practices, but they do not necessarily have the support of a majority.

Such situations create institutional conundrums: what should be done when a mere minority of Senators changes accepted institutional norms? One option is to acquiesce and allow ''rule by the minority'' so that the minority's norm becomes the Senate's new norm. But another option has been for the majority of Senators to deny the legitimacy of the minority Senators' effort to shift the norms of the entire body. And to do that, it has been necessary for the majority to act independently to restore the previous Senate norms of conduct.

This section examines those illustrative instances—examples of when the Senate refused to permit a minority of Senators to change norms of conduct or to otherwise exploit the rules in ways destructive to the Senate, and, instead, exercised the constitutional option.

When Senator Robert C. Byrd was Majority Leader, he faced several circumstances in which a minority of Senators (from both parties) began to exploit Senate rules and precedents in generally unprecedented ways. The result was obstruction of Senate business that was wholly unrelated to the institution's great respect for the right to debate and amend. Majority Leader Byrd's response was to implement procedural changes through majoritarian votes in order to restore Senate practices to the previously accepted norms of the body.

In 1977, two Senators attempted to block a natural gas deregulation bill after cloture had already been invoked. [See Martin B. Gold & Dimple Gupta, The Constitutional Option to Change Senate Rules and Procedures: a Majoritarian Means to Overcome the Filibuster, 28 Harv. J. L. Pub. Pol'y 206,262–264 (2004).] A ''post-cloture filibuster'' should seem counterintuitive for anyone with a casual acquaintance with Senate rules, but these obstructing Senators had found a loophole. Although further debate was foreclosed by Rule XXII once post-cloture debate was exhausted, the Senators were able to delay a final vote by offering a series of amendments and then forcing quorum calls and roll call votes for each one. Even if the amendments were ''dilatory'' or ''not germane'' (which Rule XXII expressly prohibits), Senate procedure provided no mechanism to get an automatic ruling from the Chair that the amendments were defective. A Senator could raise a point of order, but any favorable ruling could be appealed, and a roll call vote could be demanded on the appeal. Moreover, in 1975, before a point of order could even be made, an amendment first must have been read by the clerk. While the reading of amendments is commonly waived by unanimous consent, anyone could object and require a reading that could further tie up Senate business. Thus, the finality that cloture is supposed to produce could be frustrated.

These practices were proper under Senate rules and precedents, but Majority Leader Byrd concluded in this context that these tactics were an abuse of Senate Rule XXII. His response was to make a point of order that ''when the Senate is operating under cloture the Chair is required to take the initiative under rule XXII to rule out of order all amendments which are dilatory or which on their face are out of order.'' [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 263.] The Presiding Officer, Vice President Walter Mondale, sustained the point of order, another Senator appealed, and Majority Leader Byrd immediately moved to table. The Senate then voted to sustain the motion to table the appeal. In so doing, the Senate set a new precedent that ran directly contrary to the Senate's longstanding procedures which required Senators to raise points of order to enforce Senate rules. Now, under this precedent, the Chair would be empowered to take the initiative to rule on questions of order in a post-cloture environment.

The reason for Majority Leader Byrd's tactic immediately became clear. He began to call up each of the dilatory amendments that had been filed post-cloture, and the Chair instantly ruled them out of order. There was no reading of the amendments (which would have been dilatory in itself) and there were no roll call votes. The Majority Leader then exercised his right of preferential recognition to call up numerous remaining amendments, and similarly disposed of them. No appeals could be taken because any appeal was mooted when Majority Leader Byrd secured his preferential recognition to call up additional amendments. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 263–264.]

This was the constitutional option in action. Majority Leader Byrd did not follow the regular order and attempt to amend the Senate Rules in order to block these tactics. Instead, he used a simple point of order that cut off the ability of a minority of Senators to add a new layer of obstruction to the legislative process. His method was consistent with the Senate's constitutional authority to establish procedure.

Majority Leader Byrd used the constitutional option again in 1979 in order to block legislation on appropriations bills. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 264–265.] Standing Rule XVI barred Senate legislative amendments to appropriations bills. By precedent, however, such amendments were permissible when offered as germane modifications of House legislative provisions. Thus, when the House acted first and added legislative language to an appropriations measure, Senators could respond by offering legislative amendments to the House's legislative language. While another Senator might make a point of order, the Senator offering the authorizing language could respond with a defense of germaneness. And, by the express language of Rule XVI, that question of germaneness must be submitted to the Senate and decided without debate. By enabling the full Senate to vote on the germaneness defense without getting a ruling from the Presiding Officer first, the legislative amendment's sponsor avoided having to overturn the ruling of the Chair and create any formal precedents in doing so. The result was a breakdown in the appropriations process due to legislative amendments, and it was happening pursuant to Senate rules that plainly permitted these tactics.

Majority Leader Byrd resolved to override the plain text of Rule XVI and strip the Senate of its ability to decide questions of germaneness in this context. Senator Byrd's mechanism was similar to the motion he employed in 1977: he made a point of order that ''this is a misuse of precedents of the Senate, since there is no House language to which this amendment could be germane, and that, therefore, the Chair is required to rule on the point of order as to its being legislation on an appropriation bill and cannot submit the question of germaneness to the Senate.'' [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 265 (emphasis added).] The Chair sustained the point of order, and the Senate rejected the ensuing appeal, 44–40.

The result of Majority Leader Byrd's exercise of the constitutional option was a binding precedent that caused the Senate to operate in a manner directly contrary to the plain language of Rule XVI. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 265.] Moreover, the method was contrary to past Senate practices regarding germaneness. But the process employed, as in 1977, was nonetheless constitutional because nothing in the Senate's rules, precedents, or practices can deny the Senate the constitutional power to set its procedural rules.

The Senate's Executive Calendar has two sections—treaties and nominations. Prior to March 1980, a motion to enter Executive Session, if carried, would move the Senate automatically to the first item on the Calendar, often a treaty. Rule XXII provides (then and now) that such a motion to enter Executive Session is not debatable. However, unlike the non-debatable motion to enter Executive Session, any motion to proceed to a particular item on the Executive Calendar was then subject to debate. In practice, then, the Senate could not proceed to consider any business other than the first Executive Calendar item without a Senator offering a debatable motion, which then would be subject to a possible filibuster. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 265–267.]

Majority Leader Byrd announced his objection to this potential ''double filibuster'' (once on the motion to proceed to a particular Executive Calendar item, and again on the Executive Calendar item itself), and exercised another version of the constitutional option. This time he moved to proceed directly to a particular nomination on the Executive Calendar and sought to do so without debate. Senator Jesse Helms made the

point of order that Majority Leader Byrd could only move by a non-debatable motion into Executive Session, not to a particular treaty or nomination. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 266.] The Presiding Officer upheld the point of order given that it was grounded in Rule XXII and long-standing understandings of Senate practices and procedures. But Majority Leader Byrd simply appealed the ruling of the Chair and prevailed, 38–54. Thus, even though there was no basis in the Senate Rules, and even though Senate practices had long preserved the right to debate any motion to proceed to a particular Executive Calendar item, the Senate exercised its constitutional power to ''make rules for its proceedings'' and created the procedure that the Senate continues to use today.

As an historical sidenote, Majority Leader Byrd used this new precedent to great effect in December 1980 when he bypassed several items (including several nominations) on the Executive Calendar to take up a single judicial nomination—that of Stephen Breyer, then Chief Counsel to the Senate Judiciary Committee, to be a judge on the U.S. Court of Appeals for the First Circuit. Judge Breyer was later nominated and confirmed to the U.S. Supreme Court in 1994. Without Majority Leader Byrd's exercise of the constitutional option earlier that year, it is almost certain that Justice Breyer would not be on the Supreme Court today.

A fourth exercise of the constitutional option came in 1987 when Senator Byrd was once again Majority Leader. The controversy in question involved an effort by Majority Leader Byrd to proceed to consider a particular bill, an effort that had been frustrated because a minority of Senators objected each time he moved to proceed. To thwart his opponents, Majority Leader Byrd sought to use a special feature of the Senate Rules—the Morning Hour (the first two hours of the Legislative Day).

Under Rule VIII, a motion to proceed to an item on the Legislative Calendar that is made during the Morning Hour is non-debatable. This feature of the rules gives the Majority Leader significant power to set the Senate agenda due to his right to preferential recognition (which is, itself, a creature of mere custom and precedent). Such a motion cannot be made, however, until the Senate Journal is approved and Morning Business is thereafter concluded (or the first of the two hours has passed). Meanwhile, the clock runs on the Morning Hour while that preliminary business takes place. When the Morning Hour expires, a motion to proceed once again becomes debatable and subject to filibuster. [Gold, Senate Procedure and Practice, at 68–69.] It was this feature of the Morning Hour that Senator Byrd believed would enable him to proceed to the bill in question.

Majority Leader Byrd's plan was complicated, however, when objecting Senators forced a roll call vote on the approval of the Journal, as was their right under the procedures and practices of the Senate. Rule XII provides that during a roll call vote, if a Senator declines to vote, he or she must state a reason for being excused. The Presiding Officer then must put a non-debatable question to the Senate as to whether the Senator should be excused from voting. When Majority Leader Byrd moved to approve the Journal, one Senator declined to vote and sought to be excused. Following Rule XII, the Presiding Officer put the question directly to the Senate—should the Senator be excused?—but during the roll call on whether the first Senator should be excused, another Senator announced that he wished to be excused from voting on whether the first Senator should be excused. The Chair was likewise obliged to put the question to the Senate. At that point, yet another Senator announced he wished to be excused from that vote. There were four roll call votes then underway—the original motion to approve the Journal and three votes on whether Senators could be excused. If Senators persisted in this tactic, the time it took for roll call votes would cause the Morning Hour to expire, and the Majority Leader would lose his ability to move to proceed to his bill without debate. All this maneuvering was wholly consistent with the Standing Rules of the Senate.

Majority Leader Byrd countered with a point of order, arguing that the requests to be excused were, in fact, little more than efforts to delay the actual vote on the approval of the Journal. His solution was to exercise the constitutional option: to use majority-supported Senate precedents to change Senate procedures, outside the operation of the Senate rules. In three subsequent partyline votes, three new precedents were established: first, that a point of order could be made declaring repeated requests to be excused from voting on a motion to approve the Journal (or a vote subsumed by it) to be ''dilatory;'' second, that repeated requests to be excused from voting on a motion to approve the Journal (or a vote subsumed by it) ''when they are obviously done for the purpose of delaying the announcement of the vote on the motion to approve the Journal, are out of order;'' and third, that a Senator has a ''limited time'' to explain his reason for not voting, i.e., he cannot filibuster by speaking indefinitely when recognized to state his reason for not voting. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 267–269.] Majority Leader Byrd had crafted these new procedures completely independently of the Senate Rules, and they were adopted by a partisan majority without following the procedures for rule changes provided in Rule XXII. Yet the tactics were wholly within the Senate's constitutional power to devise its own procedures.

This 1987 circumstance offers a very important precedent for the present difficulties. Majority Leader Byrd established that a majority could restrict the rights of individual Senators outside the cloture process if the majority concluded that the Senators were acting in a purely ''dilatory'' fashion. Previous to that day, dilatory tactics were only out of order after cloture had been invoked.

The Senate also has endorsed (or acted in response to) some version of the constitutional option several other times over the past 90 years—in 1917, 1959, 1975, and 1979.

The original cloture rule, adopted in 1917, itself appears to be the result of a threat to exercise the constitutional option. Until 1917, the Senate had no cloture rule at all, although one had been discussed since the days of Henry Clay and Daniel Webster. The ability of Senators to filibuster any effort to create a cloture rule put the body in a quandary: debate on a possible cloture rule could not be foreclosed without some form of cloture device.

The logjam was broken when first term Senator Thomas Walsh announced his intention to exercise a version of the constitutional option so that the Senate could create a cloture rule. His method was to propose a cloture rule and forestall a filibuster by asserting that the Senate could operate under general parliamentary law while considering the proposed rule. Doing so would permit the Senate to avail itself of a motion for the previous question to terminate debate—a standard feature of general parliamentary law. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 220–226.] In this climate, Senate leaders quickly entered into negotiations to craft a cloture rule. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 226.] Negotiators produced a rule that was adopted, 76–3, with the opposing Senators choosing not to filibuster. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 226.] But it was only after Senator Walsh made clear that he intended to press the constitutional option that those negotiations bore fruit. As Senator Clinton Anderson would remark in 1953, ''Senator Walsh won without firing a shot.'' [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 227.]

The same pattern repeated in 1959, 1975, and 1979. In each case, the Senate faced a concerted effort by an apparent majority of Senators to exercise the constitutional option to make changes to Senate rules. In 1959, some Senators threatened to exercise the constitutional option in order to change the cloture requirements of Rule XXII. Then-Majority Leader Lyndon Johnson preempted its use by offering a modification to Rule XXII that was adopted through the regular order. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 240–247.] In 1975, the Senate three times formally endorsed the constitutional option by creating precedents aimed at facilitating rule changes by majority vote, although the ultimate rule change (also to Rule XXII) was implemented through the regular order after off-the-Floor negotiations. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 252–260.] And in 1979, Majority Leader Byrd threatened to use the constitutional option unless the Senate consented to a time frame for consideration of changes to post-cloture procedures. The Senate acquiesced, and the Majority Leader did not need to use the constitutional option as he had in the other cases discussed above. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 260; Congressional Record, Jan. 15, 1979.]

The Senate, therefore, has long accepted the legitimacy of the constitutional option. Through precedent, the option has been exercised and Senate procedures have been changed. At other times it has been merely threatened, and Senators negotiated textual rules changes through the regular order. But regardless of the outcome, the constitutional option has played an ongoing and important role.

THE JUDICIAL FILIBUSTER AND THE CONSTITUTIONAL OPTION

The filibusters of judicial nominations during the 108th Congress were unprecedented in Senate history. [This historical observation has been conceded by leading Senate Democrats. For example, the Democratic Senatorial Campaign Committee solicited campaign contributions in November 2003 with the claim that the filibusters were an ''unprecedented'' effort to ''save our courts.'' See Senator John Cornyn, Congressional Record, Nov. 12, 2003, S14601, S14605. No Senator has disputed that until Miguel Estrada asked the President to withdraw his nomination in September 2003, no circuit court nominee had ever been withdrawn or defeated for confirmation due to the refusal of a minority to permit an up-or-down vote on the Senate floor.] While cloture votes had been necessary for a few nominees in previous years, leaders from both parties consistently worked together to ensure that nominees who reached the Senate floor received up-or-down votes. The result of this bipartisan cooperation was that, until 2003, no judicial nominee with clear majority support had ever been defeated due to a refusal by a Senate minority to permit an up-or-down floor vote, i.e., a filibuster. [For a review of all past cloture votes on judicial nominations prior to the 108th Congress, see Senate Republican Policy Committee, ''Denying Mr. Estrada an Up-or-Down Vote Would Set a Dangerous Precedent'' (Feb. 10, 2003). See also Cornyn, 27 Harv. J. L. Pub. Pol'y at 218–227.]

The best illustration of this traditional norm is the March 2000 treatment of President Bill Clinton's nominations of Richard Paez and Marsha Berzon to the U.S. Court of Appeals for the Ninth Circuit. When those nominations reached the Senate floor, Majority Leader Trent Lott, working with Democrat Leader Tom Daschle, filed cloture before any filibuster could materialize. Republican Judiciary Chairman Orrin Hatch likewise fought to preserve Senate norms and traditions, arguing that it would be ''a travesty if we establish a routine of filibustering judges.'' [Congressional Record, Mar. 8, 2000, S1297.] Moreover, as a further testament to the bipartisan opposition to filibusters for judicial nominations, more than 20 Republicans who opposed the nominations and who would vote against them nonetheless supported cloture for Mr. Paez and Ms. Berzon, and cloture was easily reached. [For Berzon, compare Record Vote #36 (cloture invoked, 86–13) with #38 (confirmed, 64–34); for Paez, compare Record Vote #37 (cloture invoked, 85–14) with #40 (confirmed, 59–39). All votes on Mar. 8–9, 2000.] Had every Senator who voted against Mr. Paez's nomination likewise voted against cloture, cloture would not have been invoked. Thus, as recently as March 2000, more than 80 Senators were on record opposing the filibuster of judicial nominations. [For a more detailed list of Senators' historic opposition to filibusters for judicial nominations, see Senate Republican Policy Committee, ''Denying Mr. Estrada an Up-or-Down Vote Would Set a Dangerous Precedent'' (Feb. 10, 2003). For an extended examination of filibustering Senators' previous opposition to judicial filibusters, see Cornyn, 27 Harv. J. L. Pub. Pol'y at 207–211.] If the new judicial nomination filibusters are accepted as a norm, then the Senate will be rejecting this history and charting a new course.

It is not only the Senate norm regarding not filibustering judicial nominations that risks being transformed, but the effective constitutional standard for the confirmation of judicial nominations. There can be no serious dispute that the Constitution requires only a Senate majority for confirmation. Indeed, many judicial nominees have been confirmed by fewer than 60 votes in the past—including three Clinton nominees and two Carter nominees. [Examples of judicial nominations made prior to the 108th Congress that were confirmed with fewer than 60 votes include Abner Mikva (D.C. Cir., 1979); L.T. Senter (N.D. Miss., 1979); J. Harvie Wilkinson III (4th Cir., 1984); Alex Kozinski (9th Cir., 1985); Sidney Fitzwater (N.D. Tex., 1986); Daniel Manion (7th Cir., 1986); Clarence Thomas (Supreme Court, 1991); Susan Mollway (D. Haw., 1998); William Fletcher (9th Cir., 1998); Richard Paez (9th Cir., 2000); and Dennis Shedd (4th Cir., 2002).] Never has the Senate claimed that a supermajority is necessary for confirmation.

Recently, however, some filibustering Senators have suggested that a failed cloture vote is tantamount to an up-or-down vote on a judicial nomination. The new Senate Minority Leader, Harry Reid, has stated that the 10 filibustered judges have been ''turned down.'' [William C. Mann, Senate leaders draw line on filibuster of judicial nominees, Boston Globe, Jan. 17, 2005.] Senator Charles Schumer has repeatedly stated that a failed cloture vote is evidence that the Senate has ''rejected'' a nomination. [Senator Charles Schumer, Congressional Record, July 22, 2004, S8585 (''I remind the American people that now 200 judges have been approved and 6 have been rejected''); see also Jeffrey McMurray, Pryor Supporters Debate Timing of Vote, Tuscaloosa News, Jan. 10, 2005 (''To nominate judges previously rejected by the Senate is wrong''); Anne Kornblut, Bush Set to Try Again on Blocked Judicial Nominees, Boston Globe, Dec. 24, 2004 (quoting official statement by Sen. Schumer).] Senator Russell Feingold described the filibustered nominees from the 108th Congress as having ''been duly considered by the Senate and rejected.'' [Keith Perine, Fiercest Fight in Partisan War May Be Over Supreme Court, CQ Weekly, Jan. 10, 2005, at 59.] Judiciary Committee Ranking Member Patrick Leahy has referred to the filibustered nominees as having been ''effectively rejected.'' [Congressional Record, Feb. 27, 2004, S1887.] And in April 2005, Senator Joseph Lieberman claimed that 60 votes should be the ''minimum'' for confirmation. [Senator Joseph Lieberman, Transcript of Press Conference, Apr. 21, 2005.] These characterizations illustrate the extent to which the Senate has lost its moorings.

Without restoration of the majority-vote standard, judicial nominations will require an extra-constitutional supermajority to be confirmed, without any constitutional amendment—or even a Senate consensus—supporting that change. Any exercise of the constitutional option would, therefore, be aimed at restoring the Senate's procedures to conform to its traditional norms and practices in dealing with judicial nominations. It would return the Senate to the Constitution's majority-vote confirmation standard. And it would prevent the Senate from abusing procedural rules to create supermajority requirements. Instead, it would be restorative, and Democrats and Republicans alike would operate in the system that served the nation until the 108th Congress.

COMMON MISUNDERSTANDINGS OF THE CONSTITUTIONAL OPTION

Senate procedures are sacrosanct and cannot be changed by the constitutional option.

This misunderstanding does not square with history. As discussed, the constitutional option has been used multiple times to change the Senate's practices through the creation of new precedents. Also, the Senate has changed its Standing Rules several times under the threat of the constitutional option.

Exercising the constitutional option will destroy the filibuster for legislation. The history of the use of the constitutional option suggests that this concern is grossly overstated. Senators will only exercise the constitutional option when they are willing to live with the rule that is created, regardless of which party controls the body. For the very few Senators (if any) who today want to eliminate the legislative filibuster by majority vote, the roadmap has existed since as early as 1917. Moreover, an exercise of the constitutional option to restore the norms for judicial confirmations would be just that—an act of restoration. To eliminate the legislative filibuster would not be restorative of Senate norms and traditions; it would destroy the Senate's longstanding respect for the legislative filibuster as a vehicle to protect Senators' rights to amend and debate. It is also worth noting that the Senate is now entering its 30th year of bipartisan consensus as to the cloture threshold (three-fifths of those duly chosen and sworn) for legislative filibusters. [In 1995, Senators Tom Harkin and Joe Lieberman proposed a major revision to the Senate filibuster rules for legislation, but the proposal failed 76–19, attracting the support of no Republicans and but a fraction of Democrats (who were in the minority). The only current Senators who sought to change the Senate's consensus position on legislative filibusters were Senators Jeff Bingaman, Barbara Boxer, Russell Feingold, Tom Harkin, Edward Kennedy, John Kerry, Frank Lautenberg, Joe Lieberman, and Paul Sarbanes. See Record Vote #1 (Jan. 5, 1995).]

All procedural changes must be made at the beginning of a Congress.

Again, this claim does not square with history. In fact, there is nothing special about the beginning of a Congress vis-a-vis the Senate's right to establish its own practices and procedures, or even its formal Standing Rules. As discussed above, Majority Leader Byrd used the constitutional option to create a precedent that overrode Rule XVI's plain text—and not at the beginning of a Congress. Moreover, as the Supreme Court held in Ballin, each House of Congress's constitutional power to make procedural rules is of equal value at all times. [Ballin, 144 U.S. at 5.]

The essential character of the Senate will be destroyed if the constitutional option is exercised.

When Majority Leader Byrd repeatedly exercised the constitutional option to correct abuses of Senate rules and precedents, those illustrative exercises of the option did little to upset the basic character of the Senate. Indeed, many observers argue that the Senate minority is stronger today in a body that still allows for extensive debate, full consideration, and careful deliberation of all matters with which it is presented.

Exercising the constitutional option would turn the Senate into a ''rubber stamp.''

Again, history proves otherwise. The Senate has repeatedly exercised its constitutional power to reject judicial nominations through straightforward denials of ''consent'' by up-or-down votes. For example, the Senate defeated the Supreme Court nominations of Robert Bork (1987), G. Harold Carswell (1970), and Clement Haynsworth (1969) on up-or-down votes. [See Record Vote #348 (Oct. 23, 1987) (defeated 42–58); Record Vote #112 (Apr. 8, 1970) (defeated 45–51); Record Vote #135 (Nov. 21, 1969) (defeated 45–55).] Even in the 10Sth Congress, when the Senate voted on the nomination of J. Leon Holmes to a federal district court in Arkansas, five Republicans voted against President Bush's nominee. Had several Democrats not voted for Mr. Holmes, he would not have been confirmed. [Record Vote #153 (July 6,2004) (confirmed 51–46).] In other words, the Senate still has the ability to work its will in a nonpartisan fashion as long as the minority permits the body to come to up-or-down votes. Members from both parties will ensure that the Senate does its constitutional duty by carefully evaluating all nominees.

CONCLUSION

Can the Senate restore order when a minority of its members chooses to upset tradition? Does the Constitution empower the Senate to act so that it need not acquiesce whenever a minority decides that the practices, procedures, and rules should be changed? Can the Senate majority—not necessarily a partisan majority, but simply a majority of Senators—act to return the Senate to its previously agreed-upon norms and practices? The answer to all these questions is a clear yes. The Senate would be acting well within its traditions if it were to restore the longstanding procedural norms so that the majority standard for confirmation is preserved and nominees who reach the Senate floor do not fall victim to filibusters.

Mr. KYL. These precedents—in 1977, 1979, 1980, and in 1987—bear directly on the situation the Senate faces today. In those instances, Senate business was being obstructed by dilatory tactics that had not traditionally been employed but which were permitted under the rules. The Senate faced the same conundrum as it does today: Must the Senate permit rule by the minority, or can it exercise its constitutional power to restore traditional practices? In

each case, the Senate did the latter. It created precedents that altered the practices and procedures and, in some cases, operation of the standing rules themselves in order to ensure that tradition was upheld.

What did not happen as a result of these earlier exercises of the constitutional option?

Well, first, the Senate did not collapse or become ''like the House of Representatives,'' which is the fear of many Senators today.

Second, Senators' speech rights are just as strong as ever. Nor were Americans' free speech rights injured, as some Senators say will happen.

Third, minority rights were not destroyed. The Senate minority is as vibrant as ever and has been remarkably successful in obstructing the business of the Senate, whether we are talking about the Energy bill, medical liability lawsuit reform, asbestos reform, tax relief, or other issues.

Before I close, I would like to address concerns that some of my conservative friends have recently expressed. Some are fretting that Republicans are taking a dangerous step by restoring the traditional up-or-down vote standard for judicial nominees. My friends argue that Republicans may want to filibuster a future Democratic President's nominees. To that I say, I do not think so. And even if true, I am willing to give up that tool. It was never a power we thought we had in the past, and it is not one likely to be used in the future, unless that longstanding tradition is abdicated.

I know some insist we will someday want to block judges by filibuster, but I know my colleagues. I have heard them speak passionately, publicly and privately, about the injustice done to filibustered nominees. I think it highly unlikely that they will shift their views simply because the political worm has turned, again, if we sustain the tradition of the Senate. So I say to my friends what you say that we Republicans are losing is in fact no loss at all.

My friends also argue that the legislative filibuster will be next. I have even seen some media outlets insist that this exercise of the constitutional option for judicial filibusters will automatically apply to the legislative filibuster. This is completely false. Moreover, no Republican Senator wants to eliminate the legislative filibuster and few, if any, Democrats do. Some once did, but they recently recanted. In fact, the junior Senator from California said she was ''wrong . . . totally wrong'' ever to have thought otherwise.

Everyone here knows that political fortunes change. It is one thing to give this supposed ''right'' that had never been used, such as this filibuster of judicial nominees. It is quite another to be so shortsighted as to eliminate such a powerful legislative tool. In fact, the first vote I ever cast as a Senator was to preserve the legislative filibuster, and I was in the majority.

But I think it is important to acknowledge, in the interest of intellectual honesty, that if the majority wanted to eliminate the filibuster for all matters, including legislation, it would have certainly had that power. It would be wildly imprudent, contrary to tradition, generally destructive of the institution, but that is what the Constitution provides—the power of the Senate to govern itself.

In closing, I say to my colleagues what we are contemplating doing is in the best traditions of the Senate. We are restoring our consensus practices for managing the judicial confirmation process using a tool that has been repeatedly used and has always been available. I look forward to completing this debate so that we can start voting on individual judicial nominees and turn to the pressing legislative matters of the Senate.

EXHIBIT 1

[From the Washington Times, May 19, 2005.]

A UNIQUE CASE OF OBSTRUCTION

(By Senator Bob Dole)

In the current debate over judicial nominations, some commentators claim Republicans such as myself are misrepresenting history by suggesting the current filibuster tactics of the Democrats are unprecedented.

These commentators cite the 1968 nomination of Abe Fortas to be chief justice of the United States as an example of how Republicans once attempted to block a judicial nomination on the Senate floor. I welcome the opportunity to respond to this claim, because the more Americans learn about the history of judicial nominations, the more they will realize how terribly off-track our confirmation process has become.

In 1968, President Lyndon Johnson sought to elevate his longtime personal lawyer, then-Associate Supreme Court Justice Abe Fortas, to be chief justice. I would not be elected a senator for a few more months, but followed the news surrounding this nomination closely.

There were problems with the Fortas nomination from the beginning. Not only did he represent the most aggressive judicial activism of the Warren court, but it soon became apparent Justice Fortas had demonstrated lax ethical standards while serving as an associate justice.

For example, it emerged Fortas had taken more than $15,000 in outside income from sources with interests before the federal courts. This was more than 40 percent of his salary at the time, or about $80,000 in today's dollars.

More fundamentally, Fortas never took off his political hat when he became a judge. While serving as a Supreme Court justice, Fortas continued serving as an informal political adviser to the president and even involved himself in Vietnam War policy. It later emerged Fortas had discussed pending cases with the president, an obvious violation of professional ethics.

In fact, less than a year after his nomination as chief justice was withdrawn by President Johnson, Justice Fortas was forced to resign from the Supreme Court due to ethical breaches.

The claim Fortas was not confirmed due to a ''filibuster'' is off-base. A filibuster, commonly understood, occurs when a minority of senators prevents a majority from voting up-or-down on a matter by use or threat of permanent debate.

That simply did not happen with Fortas, where the Senate debated the nomination's merits quite vigorously. Senators exposed the ethical issues involved and the widespread belief the vacancy had been manufactured for political purposes. They sought to use debate to persuade other senators the nomination should be defeated.

After less than a week, the Senate leadership tried to shut down debate. At that time, two-thirds of the senators voting were needed to do so, yet only 45 senators supported the motion. Of the 43 senators who still wished to debate the nomination, 24 were Republicans and 19 were Democrats.

President Johnson saw the writing on the wall—that Fortas did not have 51 senators in support of his nomination—so he withdrew the nomination before debate could be completed.

The events of 37 years ago contrast markedly with those the Senate faces today:

(1) Fortas lacked majority support when President Johnson withdrew his nomination. Today, Senate Democrats block up-or-down votes on judicial nominees who are supported by a majority of senators.

(2) Justice Fortas was politically associated with President Johnson and eventually resigned from the Supreme Court under an ethical cloud. No such charges have been made against President Bush's nominees.

(3) The Senate debated the Fortas nomination only for several days before Johnson withdrew the nomination, versus the four years some of President Bush's nominees have been pending. It's clear the Democrats today have no desire to persuade, and have even complained further debate is a ''waste of time.''

(4) Fortas' support and opposition were bipartisan, with Republicans and Democrats on both sides of the question. Today, the controversy is purely partisan—with only Democratic senators, led by their leader Harry Reid, opposing an up-or-down vote.

I recall two judicial nominations of President Clinton's particularly troubling to me and my fellow Republican members when I was the Republican Leader in the Senate. Despite our objections, both received an up-or-down vote on the Senate floor. In fact, I voted to end debate on one of these nominees while voting against his confirmation. Republicans chose not to filibuster because it was considered inappropriate for nominations to the federal bench.

By creating a new 60-vote threshold for confirming judicial nominees, today's Senate Democrats have abandoned more than 200 years of Senate tradition.

For the first time, judicial nominees with clear majority support are denied an up-or-down vote on the Senate floor through an unprecedented use of the filibuster. This is not a misrepresentation of history; it's a fact.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Texas.

Mr. CORNYN. Mr. President, at a time when it seems like too often debate on the President's nominees have shed more heat than light, it has been a delight for me to sit here, as the Chair has, and listen to the Senator from Arizona present in comprehensive detail the legal and constitutional framework for the Senate's authority to set its own rules by establishing precedents, passing standing rules, adopting standing orders by unanimous consent, and otherwise. It was an excellent presentation and, indeed, a strong case, and that is exactly why leading Senators on the other side of the aisle, including the former Democratic majority leader, the Senator

from West Virginia, the Senator from Massachusetts, and the junior Senator from New York, have all stated, as recently as 2 years ago, that, of course, a majority of Senators has the power to set rules, precedents, and procedures. Indeed, that is why the power of the Senate majority to set rules, precedents, and procedures is known as the Byrd option or, as some have called it, the constitutional option.

Let me begin my remarks by making one simple point. I would prefer the bipartisan option to the Byrd option every time. America works better, indeed the Senate works better, when we work together in a bipartisan way to try to solve the problems that come before the Congress. I would much prefer to stand up here, after waking each day, and conduct business in a bipartisan manner.

I have done my best to make the most of every opportunity that I have seen to do so since I have been in the Senate. For example, I have enjoyed working with the senior Senator from Vermont on legislation to strengthen the accessibility, accountability, and openness of the Federal Government.

I have worked with the junior Senator from Wisconsin and the senior Senator from Connecticut on the important issue of continuity of Government in the wake of a future terrorist attack.

I have worked with the senior Senator from New York on ways that we together can combat modern day slavery and human trafficking.

And I have worked with the senior Senator from Massachusetts on military citizenship and immigration issues.

I would choose collaboration in this kind of bipartisan cooperation any day of the week. But bipartisanship is a two-way street. Both sides must agree on certain fundamental principles and a fair process that applies no matter who is in power, whether we have a Republican President or a Democratic President, whether we have a Republican majority or a Democratic majority.

The most fundamental principle of all is fairness. Fairness means that the same rules apply regardless of who is President.

Bipartisanship is difficult, however, when long-held understandings and the willingness to abide by basic agreements and principles has unraveled so badly. Where fairness falters, bipartisanship will fail.

So I ask my colleagues, what are we supposed to do when these basic principles, commitments, and understandings have unraveled? What are we to do when nominees are attacked, including being called names, simply for doing their jobs, when they are attacked for following judicial precedents adopted and agreed to by appointees of Presidents Clinton and Carter, when they are singled out for their decision on a particular case even though it was held by a unanimous or near unanimous court?

What are we to do when these nominees are demonized and caricatured beyond recognition to those of us who actually know them; when Senators on the other side of the aisle call them kooks, despicable, Neanderthal, and scary; when nominees are condemned as unqualified or perhaps lacking in judicial temperament, while at the same time they are deemed unanimously well qualified by the American Bar Association, an institution that the Democrats have always revered and held up as the gold standard when it came to qualifications to serve on the Federal judiciary?

What are we to do when Senate and constitutional traditions are abandoned for the first time in more than two centuries, when both sides once agreed that nominees would never be filibustered, and then one side simply denies the existence of that very agreement when it suits them, when their interpretation of Senate tradition changes based on who happens to occupy the Oval Office and who happens to be in the majority in the Senate?

What are we to do when our colleagues boast to their campaign contributors of this ''unprecedented'' obstruction, and then come to the Senate floor and claim that it is someone else who has changed the rules; when our colleagues justify their obstruction by pointing to Clinton nominees, such as their most prominent example, Judge Richard Paez, who was confirmed by standards they now reject for this President's nominees?

What are we to do when our colleagues on the other side of the aisle claim that Justice Owen must cross the threshold of 60 votes, whereas Judge Paez only required 51 votes to be confirmed?

What are we to do when the Democrats' former majority leader, the Senator from West Virginia, claims on 1 day that the filibuster is sacrosanct and sacred to the Founders when in January of 1995 he said:

> I have seen filibusters. I have helped to break them . . . the filibuster was broken—back, neck, legs, arms.

Finally, what are we to do when they claim on 1 day that all they seek is more time to debate a nomination and then claim on another day that there are not enough hours in the universe to debate the nomination?

The new requirement this partisan minority is now imposing, that nominees will not be confirmed without the support of at least 60 Senators, is, by their own admission, wholly unprecedented in Senate history. The reason for this is simple. The case for opposing this fine nominee, Justice Priscilla Owen, is so weak the only way they can attempt to successfully oppose her is by changing the rules, imposing a double standard in an attempt to defeat her nomination.

Different Senators during the course of this debate have come to the floor and criticized judicial decisions that Justice Owen has participated in as a member of the Texas Supreme Court. As Members of this body know, I formerly served on that same court and for 3 years had the distinct pleasure of serving alongside of this able judge and fine and decent human being. I can tell you from the sharp attacks that have been made against her and the mischaracterizations that have been made of the opinions she has written and joined, I doubt that many Senators have actually read those opinions. If they had, they would not be able, with a straight face, to make some of the claims that have been made on this floor.

Rather than reading the opinions of this able jurist and fine and decent human being, it appears the talking points they have been using are written, not based on what these cases actually say, but they are talking points prepared by political consultants who are more concerned with winning a partisan political battle at any cost.

A number of Senators, for example, have mentioned a case called Montgomery Independent School District v. Davis. That is supposed to be an example of Justice Owen being ''out of the mainstream.''

But I ask my colleagues, just read the opinion. The case involved the authority of a local school board to dismiss a poorly performing and abusive teacher. This teacher admitted that she had referred to her students as little blank blank blanks, a four-letter expletive that I will not mention on the floor of the Senate. But when confronted with this, the teacher justified the use of this expletive—to schoolchildren mind you—on the bizarre ground that she used exactly the same language when talking to her own children—clearly unacceptable conduct on the part of any teacher, or any adult who is given the authority to deal so closely with impressionable children.

The Senator from New York says this teacher was wrongly dismissed. Numerous other Senators have likewise characterized Justice Owen's decision in the case the same way.

I have children. Many Senators have children. Are Justice Owen's opponents really arguing that this teacher acted appropriately? That she was wrongly dismissed and that somehow this decision, or this ruling by Justice Owen—I should say in her dissenting opinion—somehow renders her out of the mainstream? Justice Owen simply said the local school board was justified in dismissing this teacher, hardly a decision out of the mainstream. I daresay the vast majority of America would agree with her.

However, in that case the majority of the Texas Supreme Court disagreed and held that the school board could not dismiss the teacher, notwithstanding the fact that she conceded the language that she used. Justice Owen's dissenting opinion simply concluded that the majority ''allows a state hearing examiner to make policy decisions that the Legislature intended local

school boards to make.'' She also noted that the majority ''misinterpreted the Education Code.''

Another case that Senators, particularly the Senator from Massachusetts, attacked Justice Owen for was Texas Farmers Insurance Company v. Murphy. In this case, Justice Owen ruled that neither an arsonist nor his spouse should benefit from his crime by recovering insurance proceeds.

The senior Senator from Massachusetts says this position puts Justice Owen out of the mainstream. I disagree. Do Justice Owen's opponents really believe that it is extreme and out of the mainstream to say that arsonists and their spouses should not benefit from their crime?

I also point out that Justice Owen's ruling in this case followed two unanimous decisions of the Fifth Circuit Court of Appeals, the very court to which she has been nominated. Again, hardly out of the mainstream.

How about the case of FM Properties Operating Company v. the City of Austin, relied upon also by the senior Senator from Massachusetts and other Senators? Justice Owen is criticized for dissenting in this case because she did not want to use a doctrine known as the nondelegation doctrine in order to strike down a Texas law as unconstitutional. Yet just last month, another Senator, this time the senior Senator from Delaware, criticized another judicial nominee, Bill Pryor, for wanting to use the nondelegation doctrine in another situation. So Justice Owen's critics seem to be saying if you support the use of this particular legal doctrine, the nondelegation doctrine, you are out of the mainstream. And if you oppose the nondelegation doctrine, you are somehow out of the mainstream.

I ask them, which one is it? The truth is, this legal doctrine known as nondelegation is a controversial theory that is often harshly criticized by liberals who accuse conservatives of wanting to use it to strike down laws enacted by the legislature. That is fine. Fair enough. But that is exactly what Justice Owen's dissent criticized the majority of the court for doing. She stated the court has seized upon this rarely used nondelegation doctrine to claim the constitutional authority for an unprecedented restriction of the legislature's power, and that the court today exercises raw power to override the will of the legislature and of the people of Texas.

It reminds me of the lyrics of a country and western song: ''Darned If I Do, Danged If I Don't.''

Justice Owen cannot win. She is being whipsawed by Senators who on one hand criticize her for doing one thing, when other Senators criticize some other nominee for doing something else. They really are arguing both sides against the middle and these nominees cannot win, according to that inconsistent, and some might even claim hypocritical test.

The Senator from Illinois has attacked Justice Owen for a ruling in the City of Garland v. Dallas Morning News. In that case Justice Owen followed precedents adopted by three appointees of President Carter to the Federal bench. So Justice Owen is now too conservative and out of the mainstream because she happens to agree with presidential appointees of President Jimmy Carter?

The majority opinion in that case said we should not blindly follow the Federal courts. Justice Owen simply said that the courts should follow Federal precedence because Texas open government laws had originally been modeled after the Federal Freedom of Information Act.

One last example. The Senator from Washington mentioned a case that was discussed in a recent op-ed in Roll Call. She claimed that in Read v. Scott Fetzer Company, Judge Owen would not allow a woman who was raped by a vacuum cleaner salesman to sue the company that had hired him without a background check.

The Senator should check her facts because it is simply not true. The Senator must not have seen my letter published in Roll Call a few days later because I pointed ought there, as I point out here, that the dissenting opinion made clear no one questions that the company that had hired the rapist is, in fact, liable. The justices simply disagreed on whether another company, one that had not hired the rapist and had no relationship with the rapist, should also have been held liable.

Of course, a number of Senators have spoken about the parental notification cases. That is the attempt by the Texas Supreme Court to interpret a new statute which stands for the proposition which I think most Americans would agree with, that when minor girls seek to get an abortion, they should notify their parents or, failing that, seek a bypass of that requirement from a judge. That is what the legislature said they should do, and that is precisely the statute that Justice Owen sought to interpret.

I ask the people across America who may be listening to the debates we are having in the Senate, whom would you trust to judge Justice Own and whether she did a good job in that case? Who was more credible to talk about the quality of Justice Owen's legal analysis in the parental notification cases? Would it be, perhaps, say, the author of the law she was interpreting who supports Justice Owen? Would it be, perhaps, her former colleagues on the court, including former Justices Alberto Gonzales and Greg Abbott, who support Justice Owen's nomination. How about now—Attorney General Alberto Gonzales, who swore under oath that the accusations we are hearing are untrue and that he never accused her of being a judicial activist.

I have seen some of the advertising that has been done by some of the interest groups attacking Justice Owen unfairly who are claiming that Alberto Gonzales accused her of being a judicial activist. As I pointed out, he swore under oath that is not true. It is clear by any reasonable reading of the opinions that he never referred to her by name or was even, in fact, referring to her by implication.

It reminds me of what Mark Twain said: A lie can travel around the world while the truth is still putting on its shoes.

How about the pro-choice Democratic law professor appointed by the Texas Supreme Court to help set up procedures under which parental notification statute. Would critics tend to think she might be a credible person when it comes to whether Justice Owen did a good job if this same Democratic pro-choice law professor supports Justice Owen too? She said in a letter that has been made part of the CONGRESSIONAL RECORD Justice Owen simply did what good appellate judges do every day. If this is activism, then any judicial interpretation of a statute's terms is judicial activism.

I ask, should we trust the critics who have misconstrued and mischaracterized and painted a picture of this fine person beyond any recognition by those who know her and have worked alongside her or do you trust the people who actually know her, the people who have worked most closely with her? In fact, it is the very same liberal special interest groups who criticize her today who never wanted the legislature to pass this parental notification law in the first place.

It is these same liberal interest groups who literally make their living trashing nominees of this President who are criticizing Justice Owen today.

As a former justice of the Texas Supreme Court myself, I find these cases moderately interesting reading. Most Senators and most Americans probably do not, and that is fine. But we can surely agree on this. If these cases are accurately characterized and understood, they definitively demonstrate that Justice Owen is a capable and well-qualified judge, and that of course is why she enjoys such impressive and wide-ranging endorsements from across the aisle.

We should keep our eye on the ball. Let's remember what judicial activism really means because the American people know a controversial judicial ruling when they see one. Whether it is the radical redefinition of our society's most basic institutions like marriage, or the expulsion of the Pledge of Allegiance from our classrooms, or from the public square, whether it is the elimination of the three strikes and you are out law and other penalties against hardened criminals, or the forced removal of military recruiters from college campuses, Justice Owen's ruling, of course, falls nowhere near this category of cases.

There is a world of difference between struggling to try to interpret the ambiguous expressions of a legislative body and refusing to obey a legislature's directives altogether.

If the Senate today were simply to follow more than 200 years of consistent Senate and Constitutional tradition dating back to our Founding Fathers, there would be no question that Justice Owen would be confirmed today. President after president after president had their judicial nominees confirmed by a majority vote, not a supermajority vote.

By their own admission, at least at one time, Justice Owen's opponents in this body are using unprecedented tactics to block her nomination and prevent a bipartisan majority from casting their vote in favor of her confirmation.

Again, the reason is simple: The case for opposing this fine nominee is simply so weak that only by using a double standard and changing the rules can they hope to defeat her. Legal scholars across the spectrum have long concluded what we in the Senate know instinctively, and that is to change the rules of confirmation, as a partisan minority has done these last 4 years, badly politicizes the confirmation, as a partisan minority has done, and badly politicizes the Judiciary and hands over control of the judicial confirmation process to special interest groups.

I ask unanimous consent a summary of supporting quotes from legal scholars be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

Mr. CORNYN. Mr. President, the record is clear, notwithstanding what some opponents have said today and in the last 4 years. The Senate tradition has always been a majority vote, and the desire by some to alter that Senate tradition has been roundly condemned by legal experts across the political spectrum.

I will close by simply reinforcing what the Senator from Arizona stated so well in his earlier remarks. To employ the Byrd option is not a radical move at all. It would merely be an act of restoration. In fact, as we have heard time and time again, there is ample precedent to support the use of this point of order.

The senior Senator from West Virginia was then majority leader of this body and used this on four separate occasions—in 1977, in 1979, in 1980 and again in 1987—to establish precedence to change Senate procedure during a session of Congress. Other leading Senators from the other side of the aisle have recognized, time and again, the legitimacy of the Byrd option, including the Senator from Massachusetts, as well as the junior Senator from New York as recently as 2 years ago.

In the end, I believe this debate demonstrates, without a doubt, that it is time to fix our broken judicial confirmation process. It is time to end the blame game, to fix the problem, and to move on and do the American people's business. It is time to end the wasteful and unnecessary delay in the process of selecting judges that hurts our justice system and harms all Americans.

It is simply intolerable for a partisan minority to block a bipartisan majority from conducting the Nation's business. It is intolerable that the standards now change depending on who is in the White House and which party is the majority party in the Senate. And it is simply intolerable that this nominee—this fine and decent human being—an outstanding judge has wasted 4 long years for a simple up-or-down vote.

Yes, we need a fair process for selecting fair judges, after full investigation, full questioning, full debate, and then a vote. Throughout our Nation's more than 200-year history, constitutional rule and Senate tradition for confirming judges has always been a majority vote. And that tradition—broken 4 years ago after this nominee and others were proposed by the President—must be restored. After 4 years of delay, affording Justice Owen a simple up-or-down vote would be an excellent start.

Mr. President, I thank the Chair and yield the floor.

EXHIBIT 1

Professor Michael Gerhardt, who advises Senate Democrats about judicial confirmations, has written that a supermajority requirement for confirming judges would be ''problematic, because it creates a presumption against confirmation, shifts the balance of power to the Senate, and enhances the power of the special interests.''

D.C. Circuit Judge Harry Edwards, a respected Carter appointee, has written that the Constitution forbids the Senate from imposing a supermajority rule for confirmations. After all, otherwise, ''[t]he Senate, acting unilaterally, could thereby increase its own power at the expense of the President'' and ''essentially take over the appointment process from the President.'' Edwards thus concluded that ''the Framers never intended for Congress to have such unchecked authority to impose supermajority voting requirements that fundamentally change the nature of our democratic processes.''

Georgetown law professor Mark Tushnet has written that ''[t]he Democrats'' filibuster is . . . a repudiation of a settled, preconstitutional understanding.'' He has also written: ''There's a difference between the use of the filibuster to derail a nomination and the use of other Senate rules—on scheduling, on not having a floor vote without prior committee action, etc.—to do so. All those other rules . . . can be overridden by a majority vote of the Senate . . . whereas the filibuster can't be overridden in that way. A majority of the Senate could ride herd on a rogue Judiciary Committee chair who refused to hold a hearing on some nominee; it can't do so with respect to a filibuster.''

And Georgetown law professor Susan Low Bloch has condemned supermajority voting requirements for confirmation, arguing that they would allow the Senate to ''upset the I carefully crafted rules concerning appointment of both executive officials and judges and to unilaterally limit the power the Constitution gives to the President in the appointment process. This, I believe, would allow the Senate to aggrandize its own role and would unconstitutionally distort the balance of powers established by the Constitution.'' She even wrote on March 14, 2005: ''Everyone agrees: Senate confirmation requires simply a majority. No one in the Senate or elsewhere disputes that.''

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I rise today to address the nomination of Priscilla Owen to the Fifth Circuit Court of Appeals and to oppose the majority's challenge to our Nation's constitutional framework of checks and balances. I also rise to protect the rights of the minority in our political system.

This debate is historic in the context of American constitutional practice, and it deals with the core of necessary consensus building that has united and strengthened America throughout our political life.

Though I have come to the floor on a number of occasions this year to speak on vital domestic and national security concerns affecting New Jersey's and America's citizens, today, with disappointment, I rise to speak—not about issues such as the safety of our troops in Iraq; protecting our citizens at home from terrorist threats, whether it be at chemical plants or ports or airports; ending genocide in Darfur; strengthening Social Security; providing access or cost control to health care; lowering gas prices, combating global warming; or building affordable housing—all vital issues to the American people—instead, I am here because some in this body think it is their responsibility and right to eliminate minority rights when it comes to approving lifetime appointments to the U.S. Court of Appeals and to the U.S. State supreme court.

I rise to protest this attack on our constitutional system and our Senate traditions. In short, it is an attack that I think supports the view that breaking the rules is the way to change the rules. We are here today because a number of my colleagues, many in good faith, wish to ignore the principles embedded in the U.S. Constitution and allow the will of the majority to reign supreme. Absolute power is often said to corrupt, and limiting the checks and balances of the right to debate on the Senate floor can most certainly facilitate that abuse.

There was a reason our Founders gave two votes to each State. That fundamental principle was debated as the Founders wrote our Constitution. Today, there are two Senators from California, a State with 36 million citizens. Similarly, there are two Senators from the State of Wyoming, which has slightly more than 500,000 citizens. Our Founders believed strongly in the right of minorities to have a voice on the floor of the Senate and embedded this principle in our Constitution. It is absolutely one of the most essential compromises that was a part of creating our Constitution. In fact, it has been the framework that has allowed the Constitution to work so effectively for some 217-odd years.

At a practical level, this overreach—some might call abuse—by the majority is unfortunate for those of us who have been pleased to work well with the White House in building a consensus on judicial nominations. It has happened in our State. For example, New Jersey Senators have met and agreed to a set of five judges, including, by the way, a circuit court judge who reflects the best of our legal community and who travels well within the mainstream of legal thought.

Over my 4½ years in the Senate, the White House and I have agreed on an outstanding package of jurists of whom we can all be proud. And we are currently working with the White House on another package—for district court judges and one additional circuit court judge.

Let me be clear, while many of these judges would not have been my first political or philosophical choice, I have worked, together with Senator LAUTENBERG, and before him with Senator Torricelli, with the White House to come to an agreement on smart, fair, and hard-working judges for the Federal bench in New Jersey—people clearly in the mainstream, people of whom we will all be proud to have as lifetime judicial appointments. All of these are judges committed to the rule of law and not to promoting their own political views or trying to rewrite law through judicial activism.

I have voted many times for judges with whom I disagree on important issues—issues as fundamental to me as choice or worker protections. But I have voted for them because they respect the law and precedent. What I cannot and will not agree to are nominees who are political ideologues people who let us know that they will challenge precedent in order to promote their political beliefs and what I believe is an extremist agenda. They want to change the law. The job of writing laws is the job we have right here on the Senate floor.

This debate is particularly important in a practical sense to me because there is a vacancy currently on the Third Circuit Court of Appeals due to the retirement of Michael Chertoff, now the head of our Nation's Department of Homeland Security. I fear this Third Circuit vacancy is in jeopardy of going the way of what we have seen with the nomination of these activist judges—jurists with views outside the mainstream, with extremist views, who believe that it is their right to make the law as opposed to interpret it or apply it.

If these activist individuals want to make law—and they may have remarkable resumes—they should run for Congress or the Senate rather than accept a nomination to the Federal bench.

That is why my support for the filibuster in the judicial nominating process is not about anything but the fundamental constitutional principles established by our Founders.

It is not about getting even. It is not tit for tat. I am not suggesting Democrats should block nominations because Republicans have used process and procedure to stop Democratic nominees, which, in fact, has been the case. The hard facts show that the Senate has approved 208 of President Bush's 218 judicial nominations. That is a 95-percent rate of approval—not too bad; as a matter of fact, I think most people would think if you were hitting at that level in baseball, you would be doing pretty good.

President Clinton's nominees were often held up before they even had a chance for debate in committee, a different procedural process that led to about over 60 of the Clinton nominations being blocked. But again, I don't think this issue is about tit for tat or getting even.

It is misplaced for others to argue that Democrats are being obstructionist because we refuse to serve as rubberstamps. I was not elected by the people of New Jersey to be a rubberstamp. Actually, they don't like that kind of thing in New Jersey.

Republicans may one day see a change in their majority status, and many of my Republican colleagues may not like this change at another point in time. I don't think they would seek to be a rubberstamp in the judicial nomination process at that time.

This is not about an up-or-down vote, as Republicans suggest. That argument is intended to divert the attention of the American people from the real issue—the rights of the minority in the Senate, as developed by our constitutional Founders, the U.S. system of checks and balances, and, frankly, the principle of fundamental fairness, that you don't change the rules in the middle of the game.

Here is the argument that this is not about an up-or-down vote. The majority blocked over 60 of President Clinton's nominees. They never allowed them to have an up-or-down vote on the Senate floor and, frankly, they never allowed them to have an up-or-down vote in committee. They just used different rules and different procedures, at different time, but they accomplished the same thing.

Additional evidence that this is not about giving nominees an up-or-down vote is the simple fact that historically the filibuster has been used as a Senate procedural tool, often to prevent Democratic judicial nominees from receiving an up-or-down vote in the Senate.

Since 1968, at least according to the legal scholars I have talked to, we have seen Republicans use the filibuster six times to block judicial nominees, perhaps the most visible being the nomination of Abe Fortas to be Chief Justice of the Supreme Court. The Fortas nomination was successfully filibustered and was never given an up-or-down vote.

But just to put it in a broader historical perspective, 20 percent of the nominations to the Supreme Court from our birth as a nation have never gotten an up-or-down vote in the Senate.

One has to put this into a historical perspective. This is something that should be debated on a more fundamental level of what it is that one can draw from the reading of our Constitution. I go back to the fact that there are two Senators for every State, regardless of its size. The intent was to make sure minorities were fully represented.

Looking at this from another perspective, a more political perspective, I accept that Republicans hold 55 seats in the Senate and that President Bush won reelection. However, neither of those facts goes against the constitutional history of the right to speak your mind as a minority. And neither of those facts give the majority the right to break the rules to gain more power. The rules are the rules adopted. A ruling from the Chair without consultation with the Parliamentarian would be an extraordinary action, certainly contrary to anything I have seen in the 4½ years I have been here, certainly contrary to what I hear among my colleagues.

A rule change under extraordinary procedures is why it has been labeled the nuclear option. I would argue if the majority were to adopt this procedure they would be breaking the rules to make the rules. We all know we are setting an extraordinary precedent—and frankly, this could become a slippery slope for this legislative body, particularly when it sets a precedent that may be expanded upon to include legislative filibusters, which I hear almost everyone argue is not something they would embrace. It could be a slippery slope and a dangerous precedent for a thriving democracy and an August body that has served America well by providing for checks and balances through the fullness of our political life.

Our U.S. system is based on the competition of ideas between the two main political parties. Clearly, each side seeks to prevail. What the majority is doing now goes beyond a simple desire to prevail. What is going on here is an attempt by the majority to break the rules to change the rules. That violates the principle of fundamental fairness and actually attacks in a fundamental sense the rule of law under which our Nation operates. You don't break the rules to win in America. That is not the American way.

The American way is to play fairly and consistently by the rules. That is all that I believe we on this side of the aisle are asking for. We are asking for the right to play by the established rules that have been historically in place, consistent with precedent, ones that have existed for decades, to challenge people who we believe are fundamentally unqualified or judicially outside the mainstream to be Federal judges either because of their views, which are inconsistent with precedent, or because of their activist judicial records.

Let me be specific as to the judicial nominees before the Senate: Justice Priscilla Owen and Justice Janice Rogers Brown. Both may be remarkable people in their own right, but that is not my concern. Good people may not be fit to serve as federal judges because of their interpretation of the Constitution, how they apply it or don't apply law, and the activist approach they take.

Let's start with Justice Owen. This is a judge who has consistently inserted her political views into judicial opinions. That is how I read the record. She has had a record distinguished by conservative judicial activism. Justice Owen has consistently voted to throw out jury verdicts favoring workers and consumers against businesses and she has dismissed cases brought by workers for job-related injuries, discrimination, and unfair employment practices, making decisions that are inconsistent with established precedent.

Justice Owen has participated in cases involving companies that have been involved in her own political activities, including Enron and Halliburton decisions. But the real issue, the Houston Chronicle concluded, was that ''Owen's judicial record shows less interest in impartially interpreting law than in pushing an agenda.'' I believe this is a record that is outside the mainstream. That justifies my position and, I believe, that of my Democratic colleagues.

As for Justice Janice Rogers Brown, a California Supreme Court justice nominated to the DC Circuit, she has spent the better part of her time as a judge attacking America's social safety net. The California Bar Commission found Justice Brown unqualified in part because of her tendency to interject her political and philosophical views into her opinions. I don't have a problem with people having political and philosophical views. Most of the folks who speak here on this floor have political views. But when you go to the bench, you are asked to bring an impartiality, an independence as to how you deal with a case and how you apply the law and interpret the law. Justice Brown, through her opinions as a judge has made it clear that she has a disregard for legal precedent. Justice Brown has called Supreme Court decisions upholding the New Deal ''the triumph of our socialist revolution.'' I believe that is outside the mainstream. Let us not forget, by the way, that one of the main components of the New Deal was the creation of Social Security, which is now having a debate in this Nation. It is hardly a socialist initiative.

Justice Brown has also—always in dissent—used constitutional provisions or defied the legislature's intent to attempt to restrict or invalidate laws that she doesn't like—as, most notably, she did with California's anti-discrimination statute. And so I believe that this is a case where there is reason to believe that Justice Brown would operate outside of the mainstream if confirmed as a federal judge.

I simply cannot support placing such an immoderate judge on the Federal appeals court for a lifetime tenure.

In closing, let me return to where I began. Yes, this is an important debate—maybe one of the two or three most important in the last few years. I think it goes at the core of our constitutional system. It is unfortunate we are not here debating the real problems that face our Nation and the citizens of my State, which include health care costs, gas prices, education, energy costs, and the safety of servicemen. Those are the issues that people talk to me about when I am out and about in my home State. But the people of my home State—and I suspect it is true of people of every State in the Nation—expect us to defend our constitutional liberties. They expect us to stand for checks and balances and for the rights of those in the minority so that we can build a consensus to unite, not divide. They expect us to speak strongly to preserve those rights on the floor of this Senate. I think that is what this debate is about. This debate is a fundamental one and, therefore, truly one of the most important we can have.

I want us to move on to the real issues of the day, and they are challenging for our Nation, for all of us. Men and women are losing their lives. But there is an absolute responsibility for all of us to make sure that our system works with the kind of care and thoughtfulness and the kind of checks and balances that have served our Nation so well.

It is our responsibility to stay tuned to the historical traditions of the Senate and to the principles our Founders put together that said minorities in this Nation have a right to be heard. The Founders established that principle clearly with the Philadelphia Compromise. We must sustain this principle in the days ahead in our debate.

I yield the floor.

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. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, this morning, Senator GORDON SMITH came to the floor. He is a close friend. He made a statement relative to something I said on the floor yesterday about the nomination of Priscilla Owen. I am flattered he was listening, or that someone was listening.

I am afraid what he said about my remarks was not completely accurate. Senator SMITH made the following statement:

As I understood the assistant Democratic leader, he was saying that Judge Owen's membership in the Federalist Society should disqualify her.

Well, this is about the nomination of Priscilla Owen from Texas. I made the point of how interesting it was that while very few lawyers in America belong to the Federalist Society—maybe 1 percent—it turns out that about a third of President Bush's nominees belong to this Federalist Society. I referred to it as the ''secret handshake'' at the White House and that, if you belong, you have a much better chance to become a judge.

I also made a point of the fact that when we ask nominees what the Federalist Society is and why do you belong, we get the craziest answers you can imagine. There was a law professor from Georgetown, Viet Dinh, a nice man who worked for the Department of Justice, and I said to him, ''What is the Federalist Society? Why is it so many Bush nominees belong to it?'' ''Oh,'' he said, ''it is an excuse to have lunch in Chinatown once a month. We go there and somebody talks to us and we eat and come back to school.'' And I would ask others, ''What is it all about?''

With the exception of Senator ORRIN HATCH, who I believe was on the board, or may still be on the board of the Federalist Society, almost nobody will talk publicly about who they are and what they believe.

That was the point I was making. This curious, semisecret society is so quickly disavowed by its members whenever you ask a public question about it. Yet it appears to be one of the most important things you can add to your resume if you want to be a judge from the Bush administration.

And Priscilla Owen of Texas—surprise, surprise—is a member and officer of the Federalist Society. I do not think she should be disqualified because of that. There is nothing illegal about it. I do not know what the philosophy is other than what they state on their Web site. It is very conservative. It thinks that liberals are ruining the world. It goes on and on.

I am not saying that if you belong to that you should not be qualified to serve on the bench. That is not the point. But when I asked someone such as Priscilla Owen, a supreme court justice from Texas whose time must be very precious, why she took the time to join this organization and she cannot or will not answer it, I think it is important.

I voted to confirm the vast majority of President Bush's nominees and a lot of Federalist Society members, so I am not blackballing or disqualifying them. I know it is an ultraconservative society, whatever it is, and I know that so many people are afraid to even acknowledge they are members when it is brought to public attention.

I think their views are extreme and off base, from my point of view. I think their views are extreme and off base when we look at mainstream America. How can you say, as they do, that the legal profession is strongly dominated

by a form of orthodox liberal ideology? Look at the 13 Federal courts of appeal and you find 10 of those Federal courts of appeal in America dominated by Republican-appointed judges. Liberal ideology? How can you say the legal profession is strongly dominated by a form of orthodox liberal ideology when seven out of the nine members of the U.S. Supreme Court were appointed by Republican Presidents?

So what I said about Justice Owen is that her conservative ideology is demonstrated by her membership in the Federalist Society. However, the best documentation on her ideology is her own track record as a judge. So I say to Senator SMITH, no, it does not disqualify Priscilla Owen, but it is curious to me why this supreme court justice had the time to pay the dues and join an organization which she just cannot remember what they believe in. I think there is more to it.

Senator KYL of Arizona also came to the Senate floor. He said something I would like to address. He charged that President Bush has only had 67 percent of his circuit court nominees confirmed, and that this is an alltime low, according to Senator KYL. I do not know if it is true or not. I do not have the data going back all the way in time. But I know this: If the Republican leadership had taken me up on my offer this morning and they had confirmed the four circuit court nominees I asked unanimous consent to bring up for a vote, President Bush's circuit court success rate would be 75 percent. But I was reminded by the Republican leader—in this case the Republican whip, Senator MCCONNELL—that there is just no time in the schedule to bring up more of President Bush's circuit court nominees.

Curious, isn't it? This whole debate, this constitutional confrontation is all about whether President Bush is getting enough nominees. I came to the floor this morning and said: Here are four we can take right now, confirm on a bipartisan basis, and get it done before lunchtime. Senator MCCONNELL of Kentucky said we are much too busy to deal with approving judges on a bipartisan basis. Instead, we are focused on one judge, already rejected by the Senate, who may precipitate a constitutional confrontation here on the floor of the Senate.

Incidentally, President Clinton's circuit court success rate when the Republicans were in control of the Senate: 71 percent. So if President Bush had these four nominees and hit 75 percent, he has already passed the success rate of President Clinton during his tenure in office.

So there is no vacancy crisis here, and they are trying to manufacture it, they are trying to suggest that President Bush is being mistreated, and yet the same Republican leadership that talks about mistreatment could not take the time—namely, an hour or two—to pick up four circuit court nominees who are standing waiting for approval. Democrats are prepared to approve. Of course, that would destroy the argument that somehow we are obstructionist.

I was involved in the debate yesterday when Senate majority leader BILL FRIST came to the floor and said:

> I rise today as leader of the majority party of the Senate, but I do not rise for party, I rise for principle. I rise for the principle that judicial nominees with the support of a majority of Senators deserve an up-or-down vote on this floor.

Moments later, Senator SCHUMER of New York asked Senator FRIST a simple, pointed question: Is it correct that on March 8, 2000, Senator FRIST, the Republican majority leader, voted to uphold the filibuster on a Democratic nominee, Richard Paez? Here is Senator FRIST's reply:

> The issue is we have leadership-led partisan filibusters that have obstructed not 1 nominee but 2, 3, 4, 5, 6, 7, 8, 9, 10 in a routine way. The issue is not cloture votes per say, it's the partisan leadership led use of cloture votes to kill, to defeat, to assassinate these nominees. That's the difference.

I spoke yesterday on the floor afterwards about Senator FRIST's poor choice of words. I said then, and I will say now, he is a man with a good heart. He cares for people. He is a doctor who has saved lives. He is a transplant surgeon, well recognized in his profession as a very accomplished doctor. In his spare time he goes to help the poorest people of the world. So I do not question that he is a man with a good heart. That was never part of it.

I was concerned with his choice of words. It was a very bad day to use the words ''to assassinate nominees.'' Just minutes before, Joan Lefkow of Chicago had been to the Senate Judiciary Committee testifying in very emotional testimony about her own family being attacked in their home and her husband and mother losing their lives.

I do not want to belabor this point. Let me just say, let's be careful with the language we use on the floor when it relates to judges. I do wish to talk about the rest of Senator FRIST's statement, not that particular section.

He admitted in the course of what he said that ''the issue is not cloture votes per se,'' it is not filibusters, per se. And we know from his own actions that the majority leader does not believe that every judicial nominee with majority support deserves an up-or-down vote because he, in fact, on March 8, 2000, voted to support a filibuster. In other words, the thing that he is condemning when it comes to Priscilla Owen is exactly what he did on March 8, 2000—supporting a filibuster against a nominee, Richard Paez. I do not understand that. I cannot understand how he can condemn that today, having done it himself a short time ago.

It turns out that it is a very specific type of filibuster to which Senator FRIST objects—in his words, a leadership-led use of cloture votes. I can see why the majority leader was such a good surgeon. He has taken the scalpel to the filibusters and decided which filibusters are OK and which are not. That really destroys the whole argument that this is all about an up-or-down-majority vote.

Senator FRIST voted to deny Richard Paez an up-or-down-majority vote. Now he says we need to change a 200-year tradition in the Senate so that no one can ever do the same thing he did to Richard Paez. This is an unusual principle to try to follow. It is, in fact, creating a constitutional confrontation over something that is very contradictory on its face.

I believe filibusters are constitutional. They are certainly allowed under the Senate rules. And when we get to the question of motives behind them, I really think that the Republicans, the majority has to dig very deep in order to find an argument to make against the practice we have used and others have used throughout the history of the Senate.

In addition, yesterday morning, before Senator FRIST moved to bring up the nomination of Priscilla Owen, Senator REID asked the majority leader whether it would not make more sense for the Senate to move instead to consider four other nominees about whom there is little controversy. Senator FRIST refused yesterday, as Senator MCCONNELL refused today. So for 2 straight days, the Republicans have had a chance to pick up four circuit court nominees to fill vacancies, to give the President a higher success rate in filling vacancies on these courts than President Clinton, and they have refused; they said we are much too busy. We have to spend time here destroying a precedent in the Senate. We have to reach the point when we can count on Vice President CHENEY to come to the Senate, to sit in that chair and, when asked, give the right answer so they can wipe away with one ruling by Vice President CHENEY a rule that has been in place for over 200 years.

Senator LEAHY asked if we could consider a nominee from Utah, who would have likely won confirmation easily yesterday. Senator FRIST refused. He insisted on bringing up this nomination of Priscilla Owen, one of the most controversial judicial nominees in recent memory, someone who has already been rejected by the Senate.

Why would the majority leader flatly refuse every effort to find a way out of this crisis? I don't know. It is possible he is still taking advice from people who should not be trusted for advice. I don't know if the name Manny Miranda rings a bell, but it should. From the spring of 2002 until April 2003, Mr. Miranda was working for the chairman of the Senate Judiciary Committee, ORRIN HATCH, and then for majority leader BILL FRIST.

Mr. Miranda and other Republican staff hacked into the committee's computers and systematically stole thousands of documents, including confidential memos between Democratic Senators and their staff. I know. I was the biggest target of Mr. Miranda.

I discovered it when the Wall Street Journal published an editorial and quoted extensively from a staff memo in my office. And I said as soon as I read it: Somebody stole this memo. There is no way the newspaper would have a copy of an obscure memo and build an editorial around it.

After some investigation, we learned that in fact Mr. Miranda was behind it.

Let me tell you what then-chairman of the Senate Judiciary Committee, ORRIN HATCH, said. I quote him directly:

I am mortified that this improper, unethical and simply unacceptable breach of confidential files may have occurred on my watch.

At which point Senator HATCH asked the Senate Sergeant at Arms to conduct an investigation. Mr. Miranda was forced to resign from the Senate staff in disgrace. The findings of the Sergeant at Arms investigation were referred to the Justice Department, which then assigned a special prosecutor to the case.

Two years later, with the case still unresolved and finished, it appears Mr. Miranda is back. According to news reports, he is now helping to lead the nuclear option fight from outside the Senate. Yesterday, Mr. Miranda sent an e-mail to allies of Senator FRIST, demanding, ''a straightforward rallying cry: NO DEALS, VOTE PRINCIPLE'' and ''NO UNPRINCIPLED COMPROMISES.''

So here we have a former aide to Senator FRIST, a person who, according to the investigation, broke into Senate computers. He is now in charge of rallying the troops on the conservative side. He is the cheerleader for the nuclear option. And he is demanding that Senator FRIST and other Republicans break the Senate rules to give extremist judges lifetime appointments.

I do not quite understand this. I commend Senator HATCH for the investigation. I commend Senator FRIST for the investigation. They knew as we knew that something wrong, probably criminal, had occurred, and they went forward with an honest investigation. When this man resigned in disgrace you would think that would be the end of his role on Capitol Hill, but now he has returned as a cheerleader for the cause of the nuclear option.

It is hard to keep track of some of these players without a scorecard. But keep track of Mr. Miranda. He will undoubtedly pop up again.

There is another thing that should be addressed. Senator FRIST has given his word in writing that he will not seek to eliminate the filibuster when it comes to legislation—just judicial nominees, Senator FRIST said. But he also said he is leaving the Senate at the end of next year. He has voluntarily, on his own, decided to limit the terms that he would serve.

So the next majority leader, Republican or Democrat is not obliged to take any promise Senator FRIST might make. The truth is, if this Senate, for the first time in history, rejects the principle of extended debate, there is no guarantee that the damage of the nuclear option will not spread. In his opening remarks yesterday Senator FRIST said if Republicans would vote the nuclear option, Democrats ''will retaliate.''

They will obstruct the Senate's other business. They will obstruct the people's business. They will hold back our agenda to move America forward. An energy strategy to reduce our dependence on foreign oil, held back; an end to the medical lawsuit abuse to reduce the cost of health care, held back; a simpler, fair Tax Code to create jobs and to encourage economic growth, held back.

Supporters of the nuclear option say they only want to eliminate the filibuster for judicial nominees. It doesn't take much imagination to consider the possibility of a majority leader in the future saying, with gas prices at an all-time high, America just cannot afford an extended debate on an energy bill.

If we eliminate extended debate for judges who serve for life, why would we preserve unlimited debate on the nominations of Cabinet Secretaries who leave office with the President who appoints them? Or on laws that can be reversed by the next Congress?

The truth is, this line in the sand will disappear with the next wave. This is not about principle. It is about politics.

Many special interest groups have made it clear they are going to fight anyone who tries to eliminate the filibuster over legislation. To quote the conservative columnist, George Will:

It is a short slide down a slippery slope from the postulated illegitimacy of filibustering judicial nominees to the illegitimacy of filibustering any sort of nominee to the illegitimacy of filibusters generally. That is not a position conservatives should promote.

Quote from George Will, the grand guru of the conservative cause.

Former Republic Senators Jim McClure and Malcolm Wallop, both also conservative, agree. In a recent op-ed in the Wall Street Journal, these two former Republican Senators wrote:

It is naive to think what is done to the judicial filibuster will not later be done to its legislative counterpart.

They add:

It is disheartening that those entrusted with the Senate's history and future would consider damaging it in this manner.

I think that is what it gets down to. I think it is a question of this institution and its future and what it is going to look like. Today I am in the minority. You are in the majority. That could change. Every election, the people of this country have the final word on who will be the majority party in the Senate. What has endured throughout all the changes in history from one party to the next is a basic concept and that is, no matter how large your majority, you must respect the minority in the Senate. It is not democracy if you do not respect the minority—it is tyranny. We know that. The Greeks knew that when they invented the term.

Yet when it comes to the rules of the Senate to protect the minority, what we are hearing is that many are ready to cast them aside. Senator FRIST, for reasons I cannot explain, wants to have the distinction, the singular distinction, to go down in history as the only Republican majority leader to destroy a 200-year-plus tradition in the Senate, a tradition of extended debate and filibusters. I do not think that would be a proud moment for this body. I do not think it would be a proud part of any Senator's legacy. That is why many of us are appealing to the other side of the aisle.

Time and again in our Nation's history when we really faced some very difficult situations with judges who were controversial and courts that didn't agree with the President, Presidents have said: Give us more power. We will control those courts.

And when those Presidents came to Congress, as they had to, they found that even their own party would not go along with them. The Senators in those eras of Thomas Jefferson and Franklin Roosevelt took enough pride in this institution to say: We will make our own rules, Mr. President. We will stand by the Constitution. We will not give you more power.

But look what is going on now with this nuclear option. It is being orchestrated by the President. And we have too many Senate Republicans who are playing the role of lapdog to the Commander in Chief. They are sitting there like a group of cocker spaniels in a room full of pit bulls, afraid to speak up. They want to give this President whatever power he asks for, whatever nominee he asks for. What a departure from the tradition of this Senate, when it was truly independent, when we respected the President but also respected—maybe more—our constitutional responsibilities.

Our constitutional responsibility is not to agree with everything the President says; not to agree with everything that he wants; not to give him every shred of power that he seeks. Throughout history, Senators have said: We respect you, Mr. President. We respect the Constitution more.

In the midst of this debate, that has been completely thrown away by so many Republican Senators. They are so loyal, to the point of blind loyalty, that they cannot see what is happening to this institution. That they would walk away from the institutional authority of the Senate, the constitutional authority of the Senate, over what?

Take a look at these numbers—208 to 10. How much more graphic could it be? The full Senate has considered 218 judges, since President Bush was elected, and 208 have been approved. Over 95 percent.

When it comes to the 10, it is arguable who dropped out and who retired, but I will use the larger number of 10 just to demonstrate to those who are following this debate that there is hardly a crisis. This President has been more successful appointing judges than

any President in 25 years. There are fewer vacancies on the Federal courts of America than at any time in recent memory. And it was not that long ago when the Republicans, during the Clinton administration, held a series of hearings, which I attended, arguing that we just have too many Federal judges. Senator GRASSLEY of Iowa, a good friend, chairman of a Subcommittee on Judiciary, used to hold regular hearings calling Republican judges from different circuits who would say: Keep those vacancies. Don't fill them. We have plenty of judges. The caseload is not that heavy.

Now the argument is being made, with even fewer vacancies, that we are in a judicial crisis. We are not. It has been 9 years since we had so few judicial emergencies in the courts. We have been through times of larger vacancies and, unfortunately, the Republican majority would not give President Clinton the judges he needed to fill them.

These are the things which clearly we find are the realities of the debate. A President extraordinarily successful in creating and filling more judgeships, a president who has been extraordinarily successful when it comes to convincing his presidential party to support him, and now a move afoot to change the traditions and rules of the Senate in a way that can create constitutional confrontation, if not constitutional crisis.

There are 55 Republican Senators. We need six—six who will stand up and say: History is our guide. We cannot let this institution change or diminish. We will stand with those on the Democratic side of the aisle, understanding that each of us has to use our own discretion when it comes to those nominees we will vote for, understanding that each of us is aware of the fact that the next election could change the balance in this Senate so quickly.

One of the nominees who will be considered next is Janice Rogers Brown. She may be the nuclear trigger—either she or Priscilla Owen. There was an article in a recent New York Times magazine about a far-right legal movement in America called the Constitution in Exile. This movement consists of judges and scholars who believe that the right to private property and economic liberty is almost absolute. Its adherents believe that nearly all Government infringement on property rights is repressive. They encourage judges to strike down laws on behalf of rights that do not appear explicitly in the Constitution.

If this philosophy sounds familiar, it should. The article lists Janice Rogers Brown as a poster child for the Constitution in Exile movement.

I served as the ranking Democrat at Justice Brown's hearing in October of 2003. I asked her a lot of questions. Her answers offered little assurance that she will be anything other than a judicial activist with a very extreme agenda. Her views on Government, courts, and the Constitution are troubling. She called the year 1937 ''the triumph of our socialist revolution.''

She has said:

> Where government moves in, community retreats, civil society disintegrates and our ability to control our own destiny atrophies.

She has said that politicians are ''handing out new rights like lollipops in the dentist's office.''

She claimed that our Federal courts ''seem ever more ad hoc and expedient, perilously adrift on the roiling seas of feckless, photo-op compassion and political correctness.''

She has even complained in the last 30 years, the Constitution has ''been demoted to the status of a bad chain novel.''

Her rhetoric makes it clear she is inspired and guided by Fountainhead, Atlas Shrugged, and the Road to Serfdom, more than the Constitution and the Bill of Rights.

At her hearing, Justice Brown said her speeches were just an attempt to ''stir the pot.'' Justice Brown's speech did more than stir the pot. Those speeches knocked it off the stove.

I have concerns about her record on the bench, even beyond these speeches where she has opened up her heart.

In her own words, she said:

> I have been making a career out of being the lone dissenter.

In case after case, she has come out on the side of denying rights and remedies to the disadvantaged. Oftentimes she was, indeed, a lone dissenter and oftentimes she ignored even established court precedent and rulings. I have a lot of concerns about her tendency to push her philosophical views into opinions.

The California State Bar Commission in 1996 said as much when it rated Justice Brown as not qualified for the California Supreme Court. Yet the Bush White House wants to appoint her to the second highest court at the Federal level in America.

Justice Brown suggested at her hearing the views in her speech do not reflect the view and her decisions. The facts tell a different story. There is a seamless web between Justice Brown's speeches and her decisions. It is the same person. It is the same philosophy. It is the same conclusion. I have concern about nominating to the DC Circuit someone with her hostility to the forces of Government.

The DC Circuit is the No. 1 adjudicator of Federal agency disputes. I don't think someone who considers the New Deal a ''socialist revolution'' is the right person for the job. Think of all the socialism in the New Deal. I can think of one element that she might call socialism. Franklin Delano Roosevelt called it Social Security.

I want to discuss her evasiveness too. She is a wise lawyer. And good lawyers knows how to duck a question better than a politician. We can't properly perform the advice and consent function of the Senate if nominees will not level with us. Take the Lochner case. This is a famous case that most students study in law school, certainly those who study constitutional law. In her speeches, Justice Brown has praised it. Now, at her hearing we asked her, and she attempted to distance herself from what she said before, saying that the case has been ''appropriately criticized'' and ''discredited.'' Yet she evaded a simple question about whether she agreed with it.

It is an important case. It is a case that spells out the responsibility of the Federal Government when it comes to questions of commerce and liberty of contract. It was a decision by the court many thought moved clearly in the wrong direction and did not even allow Federal jurisdiction in questions regulating health and safety.

Here is another example of her evasiveness. I asked her in writing to explain what rights she was referring to when she said that politicians are handing out new rights like lollipops in a dentist's office. Her full answer to that question was as follows:

> I was merely commenting in general terms and was not specifically criticizing a particular legislative action.

Now, in all fairness, that is a duck and a dodge. She did not answer the question. I asked her whether she agreed with the Federalist Society mission statement, the one I said earlier, about orthodox liberal ideology dominating the legal profession and so forth. She gave me the most evasive answer of any nominee, once again mystified as to what the Federalist Society really means, although she has attended their events.

She said:

> As a judge, I have not had occasion to determine whether the law schools and legal professors are by and large liberal or conservative, and thus do not find myself qualified to offer an opinion on that subject.

She did not answer half the question. My question was about law schools and legal profession and she did not address the legal profession. I can go on, but I tell you this: She was not going to answer questions. We have seen nominees like her before who come before us and defy us to ask questions and to have answers come forward.

There is a legitimate area of inquiry. I can recall when a Republican Member of the Senate Judiciary Committee asked one of President Clinton's nominees to disclose every vote she had cast for a California referendum for or against it in her lifetime. I thought that crossed the line. There is some secrecy in the ballot box and privacy involved, but that was considered a fair range of questions when it came to asking Clinton nominees if they are qualified. When we ask Justice Janice Rogers Brown the most fundamental questions about things she has said publicly, she ducks and dodges.

According to the Washington Post, which has defended many of President Bush's judicial nominees:

> Justice Brown is one of the most unapologetically ideological nominees of either party in many years.

A Los Angeles Times editorial entitled ''A Bad Fit for a Key Court,'' stated:

In opinions and speeches, Brown has articulated disdainful views of the Constitution and government that are so strong and so far from the mainstream as to raise questions about whether they would control her decisions.

That is from her home-State newspaper.

The New York Times echoed that sentiment and said Brown ''has declared war on mainstream legal values that most Americans hold dear.''

The Atlantic Journal-Constitution wrote that Brown's views ''are far out of the mainstream of accepted legal principles.''

The list goes on and on of over 100 organizations, including the Congressional Black Caucus, that oppose Justice Brown.

Dorothy Height recently received the Congressional Gold Medal. She said this about a vote on Justice Brown:

I cannot stand by and be silent when a jurist with the record of performance of California Supreme Court Justice Janice Rogers Brown is nominated to a federal court, even though she is an African-American woman.

Ms. Height, an African-American women herself, goes on to say:

In her speeches and decisions, Justice Janice Rogers Brown has articulated positions that weaken the civil rights legislation and progress that I and others have fought so long and hard to achieve.

Stephen Barnett, a University of California-Berkeley constitutional law professor who had endorsed Brown before her hearing and whose support Chairman HATCH specifically mentioned in his opening statement at Justice Brown's hearing, sent a letter to Senator HATCH after the hearing and withdrew his support for Janice Rogers Brown. This is what Professor Barnett, who was once supposed to be a strong advocate for her, wrote to Senator HATCH after her hearing:

Having read the speeches of Justice Brown that have now been disclosed, and having watched her testimony before the Committee on October 22, I no longer support the nomination.

So you would hear from the Republican side that she is just another routine nominee who is being beaten up on by the Democratic side of the aisle. But when you read through all these comments of people who have observed her in her professional life, those who have followed her, not only fellow judges but those in the legal profession, it is very clear: This is a controversial nominee. She is a person who will bring to the bench something less than the moderation that we look for.

I come from the Democratic side of the aisle. I understand if you are going to put a person on the bench, 9 times out of 10 you should look for a person who is going to try to be moderate and mainstream. What I found is that 10 times out of 10, with very few exceptions, that is exactly what we have ended up with. That is not the case here.

The White House strategy is unfair to Justice Brown and her family, unfair to the Senate, and unfair to those who want to move beyond the environment of political confrontation which has become the hallmark of our efforts. We should not have to go through this knock-down, drag-out over filling these court vacancies. I have said to Chairman HATCH, and I will say again to those listening, there are plenty of good, conservative Republican attorneys and judges who are not so ideologically extreme who could fill these positions. You can find them in Ohio. You can find them in Virginia. You can even find them in Illinois. Why this White House continues to go after some of the most inflammatory, some of the most extreme judges to fill the benches in the highest courts in the land is beyond me.

So when we find, among 218 nominees, 10 who fall into this extreme category, when we say they have gone too far, when we say to the President: You may have 95 percent, but for this other 4 or 5 percent the answer is no—I think we are doing what the Constitution asks us to do: advise and consent.

But the President, of course, says no. I want them all. No dissent, no disagreement—I want every single judge. Strike ''advise and consent'' and put ''consent'' in there. That is what this President wants. Maybe that is what every President wanted. But the Congress and Senate in particular in the past have told those Presidents: No. We have the right to ask these questions and to demand the answers. And if we find a nominee wanting, we have the right to reject them, either by extended debate and filibuster or by the majority vote that ultimately that candidate would face if a motion for cloture prevailed.

So in this case, they have decided that rather than hold these nominees to the same standard, they will change the rules of the Senate. That is what the nuclear option is about, changing the rules in the middle of the game, diminishing the constitutional principle of checks and balances, reducing the power of the Senate against the power of the White House and the Presidency, and saying to this President: You may make lifetime appointments of judges without holding them to the same standards that every President's nominees have been held to.

Some time next week—and I pray to God it does not happen—Vice President CHENEY may take that chair, preside over the Senate, and with just a few words sweep away 200 years of tradition. It is an act of arrogance to think that any person would do that without reflecting on the history of this body and its traditions.

It is an abuse of power that this White House has to have more and more power, that 208 judges out of 218 is not enough, that they are going further. They want them all. And they have found too many compliant Republican Senators who have said: Whatever you want, Mr. President. Sign us up.

I sincerely hope the Senate rises to the occasion. I sincerely hope that six Republican Senators will show the courage to speak out for the value of our Constitution and the tradition of the Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise to support the nomination of Priscilla Owen to the U.S. Court of Appeals for the Fifth Circuit.

I believe it is important that the Senate take its responsibility to advise and consent with respect to nominations very seriously. The people who are appointed to the judiciary, as well as to the executive branch of Government, can have an enormous impact on how our Government operates. In many cases, an appointee can make the difference on whether a particular policy or program is effective.

I also believe the Senate should seek to work in a bipartisan manner, particularly with respect to judges. Since I came to the Senate 6 years ago, I have always been open to listen to any concerns that my colleagues across the aisle may have about a nominee.

There has been a great deal said about Priscilla Owen and her nomination to the Fifth Circuit. I have heard the concerns about Justice Owen, but, frankly, I do not see any basis for them. If Justice Owen is not acceptable as a nominee to the U.S. Court of Appeals, we are going to have a hard time filling the vacancies in the court of appeals.

Let's review Justice Owen's record. Justice Owen has a very distinguished and impressive record as a lawyer, community leader, and most recently as a justice on the Texas Supreme Court.

Justice Owen graduated cum laude from Baylor University and cum laude from Baylor Law School in 1977. She was on the Baylor Law Review and earned the highest score on the Texas bar exam in December of 1977.

Justice Owen joined the well-regarded firm of Andrews & Kurth and rose to be a partner by the remarkably young age of 30. Any lawyer in this body has to be impressed with the fact that someone such as Justice Owen could become a partner at the age of 30. She practiced commercial litigation for 17 years.

In 1994, Justice Owen was elected to the Texas Supreme Court, and, in 2000, as has already been noted, she won a second term to the Texas Supreme Court with a vote of 84 percent.

This is a very impressive record.

I am not surprised that the American Bar Association unanimously rated Justice Owen as ''well qualified.'' That is the highest rating the American Bar Association can give to someone seeking a judgeship.

But Justice Owen's legal credentials are not the only reasons I support her

nomination. In an age where I believe too many people do not take the time to become active members of their communities, Justice Owen has been a real leader in her community.

She is a member of the board of the Texas Hearing & Service Dogs, and a member of the St. Barnabas Episcopal Mission, where she teaches Sunday school. She helped organize Family Law 2000, which seeks to lessen the adversarial nature of divorce proceedings in her State.

She has been honored as Baylor Young Lawyer of the Year and as a Baylor University Outstanding Young Alumna. She also has been active in helping the poor obtain legal services, as well as other pro bono legal activities.

I think her involvement in her community is important. We need judges who not only have exceptional legal skills, which Justice Owen certainly has, but also who have a perspective about how the law impacts upon individuals and communities.

I have reviewed the letters of support she has received, and I am pleased that she has such broad support from the people who know her best and have worked with her.

I also would like to note that even her opponents in the Senate have said they believe her to be a very good person. Accordingly, I do not see any issues that could raise any questions about whether she should be confirmed. Rather, she is exactly the type of serious, hard-working, and well-respected person who should be nominated to the court of appeals.

Some have said that Justice Owen is an extremist who will be a judicial activist. Again, I see no reason for such conclusions. Reviewing her record, I see a judge who vigorously but carefully sets forth her reasoning in her decisions and is willing to stand up for what she thinks is the correct decision. She is not an activist. She is an excellent judge.

Any good nominee who has been active in thinking and writing about issues is going to have statements in their writings that, if taken out of context, can be made to appear extreme. This is what has happened to Justice Owen. Her opponents—mainly partisan interest groups—have scrutinized her writings, looking for anything that they could make into a sound bite to distort her record. But an examination of her record as a whole reveals that claims that she is extremist are baseless. Justice Owen is a good judge and would and will make a great circuit court judge.

There is no need to filibuster this nominee. Justice Owen deserves an up-or-down vote. The filibustering of Justice Owen reveals just why the constitutional option may be necessary. The filibuster is being abused. If the minority is going to abuse its power to filibuster nominees such as Justice Owen, then the nomination process will break down completely. It is already too long and demanding on nominees and their families and deters excellent candidates from choosing to serve. We have no idea of what a chill this is sending throughout the country to people who we would like to serve on the bench but who say: I don't want to go through that process. It is a shame that such an exceptionally qualified nominee such as Miguel Estrada finally asked that his nomination be withdrawn after being filibustered for 2 years. As I look at what a clearly qualified nominee such as Miguel Estrada and Justice Owen must go through to serve our country, I wonder that the judiciary is not going to be able to attract the talent it needs.

If every nominee must get 60 votes, it is clear that many posts simply will not be filled. In addition, if we require 60 votes to confirm nominees, we are only going to see nominees who have no paper trails or records of achievement, who have done little, if any, scholarly work, and who avoid public or judicial controversies. I don't want extremists on the bench, but I also don't want bland nominees who have never had to make difficult decisions.

Comparing the Senate now to the Senate prior to the 108th Congress when filibustering of judicial nominations first occurred, I have to say that I think the old system was a lot better than what we saw in the 108th Congress. Under that system, a nominee who had the support of a majority of Senators, who was reported out of the Judiciary Committee, would get an up-or-down vote after review of the nominee's record and a robust debate. That was the fair way to proceed. It has been that way many times. It has been that way, as a matter of fact, for 214 years. No judicial nominee sent to the Senate floor who had the support of a majority of Senators was denied an up-or-down vote. There were no judicial filibusters. Thus, I do not consider the constitutional option as a change in the rules but a restoration of a Senate tradition, the tradition that filibusters do not apply to judicial nominees.

My colleagues on this side of the aisle, including myself, had many opportunities to filibuster judicial nominees during the Clinton years as well as during the decades it spent in the minority. Just think about how long the Republican Party was in the minority—from 1954 to 1980. All during that time, they never used a filibuster to stop a judge who was nominated. They insisted that there be an up-or-down vote. This was the courtesy that was extended to the other party. It helped make sure that the judicial nomination process worked smoothly and fairly. I wish the present minority would extend the same courtesy now.

I also believe the ongoing abuse of the filibuster is preventing the Senate from addressing other, often more pressing business, such as passing an energy bill, addressing asbestos litigation, and other issues. I can recall in the 108th Congress hour after hour after hour after hour, staying here late at night, working on these judicial nominees when, in my opinion, we should have been doing the other work of the Senate that was important to the people of our country.

The minority has repeatedly claimed that President Bush has had 95 percent or so of his nominees confirmed. Yet we all know this statistic is a smokescreen. The real issue here is the appointment of circuit court judges, and the minority has successfully prevented the confirmation of about a third of President Bush's nominations. President Bush has the lowest confirmation rate of circuit court judges of any President going back as far as President Roosevelt. I think the statistics show that the real issue here is not that any of these judges is extreme but that there is an active campaign to use the filibuster to prevent President Bush from appointing circuit court judges.

It is the President's job to nominate judges, and it is the Senate's job to advise and consent. It is time the Senate started doing its job and voted on these nominees. If a Senator doesn't like the nominee, that Senator should vote against the nominee. If someone doesn't like Justice Owen, vote against her, don't filibuster her and deny your colleagues an up-or-down vote. I want to vote on these nominees.

There have been nominees in the past and some currently and some from my own party who I did not support. But I never filibustered them, even during the Clinton years. I can remember in our conference meetings talking about judges and some of my colleagues getting up and saying at those meetings: Let's filibuster this judge. We can't allow that judge to go forward. That judge is going to be bad for the district court to which they are being nominated. I can remember ORRIN HATCH saying: We can't do that because if we start to do this, God only knows where we are going.

Last time around, my colleagues on the other side of the aisle started a new tradition. It is not a good tradition for the Senate. It is not a good tradition for the people of the United States of America. I believe both the President and my fellow Senators, as well as this country, deserve the courtesy of an up-or-down vote on nominees.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise to speak on this matter of judges. I was presiding the last hour and a half or so listening to some of my colleagues speak. I associate myself with the remarks of the Senator from Ohio. But I was listening to my colleagues from New Jersey and Illinois, Senator CORZINE and Senator DURBIN.

I heard the Senator from New Jersey talking about the rights of minorities. The Senate does care about the rights of the minority. When one talks about the rights of the minority, one normally talks about ways to enhance

civil rights, to make sure there is equal opportunity—that there is due process of law.

Sadly, the Democrats have changed the rules. They changed 214 years of practice, which was that when a President nominated a particular person for a judicial vacancy, the Judiciary Committee would examine that individual very closely, as to their scholarship, their temperament, their judicial philosophy, and ultimately if they passed muster, that person would come to the Senate floor. Senators, for 214 years, would vote to confirm or deny confirmation to that particular nominee. That changed just 3 years ago.

What is being suggested by Senator CORZINE and others on the other side is that a minority of only 41 Senators should be able to deny a well-qualified nominee the fairness and the due process of an up-or-down vote on the Senate floor.

These individuals are well qualified, but they are denied the opportunity of an up-or-down vote. These individuals, as Senator VOINOVICH said, go through a gauntlet. And when one of these nominees goes through the gauntlet, that doesn't last just months. It has been lasting for 1, 2, 3, and, in the case of Priscilla Owen, 4 years. Once you get through that gauntlet, you may be bruised and you may have some aspersions made about you and statements taken out of the record and opinions criticized and scrutinized and all the rest.

At the end of the day, when a majority of the Senators are in favor of that individual and they have come out of the Judiciary Committee, they ought to be accorded the fairness, the decency, the due process of an up-or-down vote.

Another statement that was made is that the Senate is to protect minority interests. Well, if one would actually read the Constitution and read the documents and the debates on the Senate, why the Senate was created the way it is and compare that to the way the House of Representatives is, one would find that the Senate is to protect the interests of the people in the States. The Senate is not representative of the population of the country, as is the House.

In fact, the Senate was to serve, in many respects, as a safeguard of State prerogatives. So when the Senator from New Jersey says the Senate is created to protect minority rights, it is to protect the right of the States. Let's recall that it was the people in the States who created the Federal Government. Note the name of our country: The United States of America. In fact, the rights of the States were so closely guarded that State legislators actually selected Senators for most of the history of this country rather than the people. Let's get those facts straight.

All of this sort of talk and background noise is trying to avoid the point that the Democrats' partisan obstruction of the President's nominees is unprecedented. We are trying to get back to the precedent we had for 214 years before they changed it. It is an issue of fairness. It is an issue for me as a Senator from the Commonwealth of Virginia, the State of James Madison, one of the key authors of our Constitution. It is my constitutional duty to advise and consent. What 41 Senators are trying to do is take away my responsibility to the citizens of the Commonwealth of Virginia. I see nothing wrong with voting yes or no.

Now, also in the midst of this flailing and background noise, from time to time, we have heard from the senior Senator from Illinois, casting aspersions on an organization called the Federalist Society, saying because Justice Owen of Texas was a member of the Federalist Society, and that many of President Bush's nominees for the Federal courts were in the Federalist Society, he wondered what this society was all about.

Well, after listening, I had my crack staff get on the Internet and get me the background on the Federalist Society. Let me share this with my colleagues regarding what is called the Federalist Society for Law and Public Policy Studies. Here is their background:

> Founded in 1982, the Federalist Society for Law and Public Policy Studies is a group of conservatives and libertarians dedicated to reforming the current legal order. We are committed to the principles that the State exists to preserve freedom, that the separation of governmental powers is central to our Constitution, and that it is emphatically the province and duty of the judiciary to say what the law is, not what it should be. The Society seeks to promote awareness of these principles and to further their application through its activities.

It goes through its mission and says the purpose of the society is unique. They have legal experts of opposing views to interact with members of the legal profession, the judiciary, law students, academics, and the architects of public policy. They talk about appreciation of the role of separation of powers; federalism; limited constitutional Government; and the rule of law protecting individual freedom and traditional values. Overall, the Society's efforts are improving our present and future leaders' understanding of the principles underlying American law. They have a student division, and the student division has more than 5,000 law students at approximately 180 ABA-accredited law schools, including all of the top twenty law schools.

They have a lawyers' division comprised of over 20,000 legal professionals and others interested in current intellectual and practical development in the law.

I urge my colleague from Illinois to recognize that they have chapters in 60 cities, including Washington, DC; New York; Boston; Chicago; Los Angeles; Milwaukee; San Francisco; Denver; Atlanta; Houston; Pittsburgh; Seattle; Indianapolis, and others. They have a faculty division and more.

I ask unanimous consent that this statement of the background of the Federalist Society be printed in the RECORD before anybody else mischaracterizes the purpose and salutary goals and mission of the Federalist Society.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[FROM THE FEDERALIST SOCIETY FOR LAW AND PUBLIC POLICY STUDIES]

OUR BACKGROUND

Founded in 1982, the Federalist Society for Law and Public Policy Studies is a group of conservatives and libertarians dedicated to reforming the current legal order. We are committed to the principles that the state exists to preserve freedom, that the separation of governmental powers is central to our Constitution, and that it is emphatically the province and duty of the judiciary to say what the law is, not what it should be. The Society seeks to promote awareness of these principles and to further their application through its activities.

In its mission and purpose, the Federalist Society is unique. By providing a forum for legal experts of opposing views to interact with members of the legal profession, the judiciary, law students, academics, and the architects of public policy, the Society has redefined the terms of legal debate. Our expansion in membership, chapters, and program activity has been matched by the rapid growth of the Society's reputation and the quality and influence of our events. We have fostered a greater appreciation for the role of separation of powers; federalism; limited, constitutional government; and the rule of law in protecting individual freedom and traditional values. Overall, the Society's efforts are improving our present and future leaders' understanding of the principles underlying American law.

The Society is a membership organization that features a Student Division, a Lawyers Division, and a newly-established Faculty Division. The Student Division includes more than 5,000 law students at approximately 180 ABA-accredited law schools, including all of the top twenty law schools. The national office provides speakers and other assistance to the chapters in organizing their lectures, debates, and educational activities.

The Lawyers Division is comprised of over 20,000 legal professionals and others interested in current intellectual and practical developments in the law. It has active chapters in sixty cities, including Washington, D.C., New York, Boston, Chicago, Los Angeles, Milwaukee, San Francisco, Denver, Atlanta, Houston, Pittsburgh, Seattle, and Indianapolis. Activities include the annual National Lawyers Convention, a Speakers Bureau for organizing lectures and debates, and 15 Practice Groups.

The Federalist Society established its Faculty Division in early 1999 with a conference that was attended by many of the rising stars in the legal academy. The objective of the Faculty Division is to provide events and other tools to help encourage constructive academic discourse. This encouragement will help foster the growth and development of rigorous traditional legal scholarship.

Finally, the Federalist Society provides opportunities for effective participation in the public policy process. The Society's ongoing programs encourage our members to involve themselves more actively in local, state-wide, and national affairs and to contribute more productively to their communities.

Mr. ALLEN. Mr. President, the Senator from Illinois went on further to

chastise and criticize the statements that he said were contradictory statements of Senator FRIST in a filibuster, as he characterized it, in the year 2000.

Now, if the senior Senator from Illinois, Senator DURBIN, wants to point to prior inconsistent statements, let me refresh his memory. This is what Senator DURBIN said on September 28, 1998:

I think that responsibility requires us to act in a timely fashion on nominees sent before us. The reason I oppose cloture is I would like to see that the Senate shall also be held to the responsibility of acting in a timely fashion. If, after 150 days languishing in a committee there is no report on an individual, the name should come to the floor. If, after 150 days languishing on the Executive Calendar that name has not been called for a vote, it should be. Vote the person up or down. They are qualified or they are not.

Those are good words from the senior Senator from Illinois in 1998. Those are the principles we are advocating now. These nominees have not been held up for just 150 days. These nominees—Priscilla Owen, Janice Rogers Brown, and others have been held up for months and years, and in Justice Owen's case, four years.

Then we heard from the senior Senator from Illinois, after saying that we ought to watch our words, he called the Republicans dogs, more specifically, cocker spaniels. This was all because we vote for President Bush's nominees for judges. So we are like dogs, cocker spaniels. Let me be like an Australian shepherd and herd in the Democrats for the last few days who have been popping up like prairie dogs. We have heard this charge from others, including Senator KENNEDY, Senator MURRAY, Senator SCHUMER, Senator DORGAN, and Senator DURBIN, who just recently made this unsubstantiated accusation that, we just vote for all these nominations and nobody votes against any of President Bush's judicial nominees.

The truth is, all of these Senators—Senators KENNEDY, MURRAY, SCHUMER, DORGAN, and DURBIN when it came to a straight up-or-down vote on all of President Clinton's judicial nominees, whether they were for district court, circuit court of appeals, or Supreme Court, never cast a dissenting vote—not even once. That is a lot of affirmative votes, if you ask me, for 8 years of President Clinton's nominees.

Then I scoured around like a German shorthair, and let me point out what I found out from Senator KENNEDY on straight up-or-down votes, not only on President Clinton's nominees, but on President Carter's judicial nominees. Senator KENNEDY didn't even cast a dissenting vote on any of those nominees. To be calling Republicans ''lap dogs,'' ''rubberstamps,'' and so forth—I don't think so.

Unlike Senator DURBIN, we are not going to call the Democrats dogs or cocker spaniels. I think we are lucky dogs that President Bush has examined some outstanding nominees from coast to coast, outstanding men and women who are willing to serve at the circuit court level, which is a very important level of appeals in this country. He has nominated well-qualified nominees for the circuit court, such as Miguel Estrada.

When you talk about qualifications, Miguel Estrada received the highest possible rating unanimously from the American Bar Association and although we had, on five or six occasions, 55, 56 votes, he was denied the opportunity of a fair up-or-down vote. Finally, his life could not continue in such limbo and he withdrew his nomination.

Priscilla Owen, a justice of the Supreme Court of Texas, another outstanding nomination from President Bush, the person we are actually debating right now, received the highest level of endorsement from the American Bar Association, a unanimous, well-qualified. Justice Owen was elected to the Supreme Court of Texas in 1994 and was reelected with 84 percent of the vote in Texas in the year 2000. This is a person well qualified, well respected in her State.

Janice Rogers Brown, another great American life story of someone who is the daughter of a sharecropper in segregated Alabama, moved to California, ended up being the first African American on the Supreme Court of California, the largest State in our Nation. She is one who has been characterized as a brilliant and fair jurist who is committed to the rule of law. The Chief Justice of the California Supreme Court called on her to write the majority opinion more times in 2001 and 2002 than any other justice of the supreme court.

In California, judges are elected rather than appointed and in the most recent election, Justice Brown received 76 percent of the vote, which was the largest margin of any of the four justices up for retention that year in California, which is not a strong red State. In fact, it is kind of a pale-blue State. Nonetheless, she received 76 percent of the vote in California.

This individual, Janice Rogers Brown, is having to go through these sort of accusations against her. She is well respected, and she is certainly within the mainstream.

I hope these rebuttals will shed some light on the reality of what is going on here. What we are simply trying to do is accord these nominees the fairness of an up-or-down vote. People in the real world probably do not understand this process. They do not understand why a nominee who has majority support cannot be accorded the fairness of a vote. The people of America understand courtesy, and they understand due process. They understand the bump and run and activity that one will have and statements that might be made, and you can have some fun talking about dogs, and so forth.

But ultimately, once you go through all the histrionics, aspersions, characterizations, rebuttals, and setting the record straight, ultimately what we ought to do as Senators is our job and our duty. This is what the people of America in our respective States have asked us to do. I really do not think it is too much for us to get off our haunches, show some spine, show some backbone, vote yes, vote no on these nominees, and then you can explain to your constituents back in New Jersey or Illinois or South Dakota or Virginia why you voted the way you did.

What we need to do is truly take the politics out of this process. It is harmful that this has become so politicized in the last several years. It is an issue I know is very important to the American people. They recognize President Bush has a philosophy—and it is one that I share—that judges ought to apply the law, not invent the law, and that he has found and sought out men and women of diverse background to bring their experiences, but also their fundamental belief of what the proper role of a judge should be, and that is to listen to the evidence, apply the facts to the law as written by the legislative branch in our representative democracy, and make that ruling.

These nominees are well qualified. They have gone through a lot. They are individuals. These are not just pieces of paper that you just crumble up and throw aside. These are human beings, and they should not be treated this way.

If we are going to be able to attract quality men and women in the future to our Federal judgeships and Federal appointments, many giving up lives where they can make more money, certainly have less controversy, they ought not to be treated like a sheet of paper. They are human beings. Let's have our debates, have the arguments, make a judgment, and ultimately vote ''yes'' or vote ''no.''

That is what I think the American people expect out of the Senate, and it is a shame we are having to spend as much time as we are on this, but it is an important principle. It is due process, it is fairness, and it is the rule of law.

I thank my colleagues. Mr. President, 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. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. ALLEN. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL POLICE WEEK 2005

Ms. MURKOWSKI. Shortly after noon on Wednesday May 11, I was presiding over the Senate when the entire Capitol complex was evacuated in response to the threat of an airplane in restricted airspace. The officers of the United States Capitol Police reacted quickly and evacuated the Capitol in record time, moving my colleagues, our staffs, the press corps and our visitors to safe locations.

I cannot say enough about the men and women of our United States Capitol Police. One of their slogans, ''You elect them . . . we protect them,'' accurately describes the mission of this highly professional force which was formed in 1828. That mission, simply stated, is to protect democracy's greatest symbol, the United States Capitol, the people who work here, and its owners, the American people, who visit our offices.

When the Senate returned to its work, our leaders took the floor to express our collective appreciation to the U.S. Capitol Police. Senator REID closed his statement with these touching words, ''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.'' Senator REID would know something about this because of all of the things on his rather impressive resume, I understand that he is proudest of his service as a member of the U.S. Capitol Police.

It is no small irony that the skills of our U.S. Capitol Police Officers would be put to the test at the very moment that surviving family members of fallen police officers from around the Nation were arriving in Washington, DC, for the annual candlelight vigil at the National Law Enforcement Officers Memorial and then for Peace Officers Memorial Day services at the west front of the Capitol.

At this time of year, it is appropriate not only to reflect on the professionalism of today's U.S. Capitol Police Officers, but also on three who have fallen in the line of duty. I am referring to Jacob John Chestnut, who was fatally shot while tending one of those checkpoints that Senator REID referred to, by an armed assailant intent upon entering the Capitol. I am also referring to John M. Gibson who was fatally shot by the same individual while protecting the life of one of our colleagues from that assailant.

And let us also not forget Christopher Eney, a U.S. Capitol Police Officer who gave his life while participating in a training exercise in 1984. I understand that he was participating in the type of intense training that would have proven very helpful on Wednesday, May 11. Their names are all inscribed on the National Law Enforcement Officers' Memorial on Judiciary Square. The headquarters of the U.S. Capitol Police is named in the honor of each of them.

This is the third consecutive year that I have spoken in honor of the men and women in law enforcement who have lost their lives in the line of duty. This year, the names of 415 law enforcement officers have been inscribed on the memorial; 153 of these brave men and women lost their lives in 2004. The remainder lost their lives in other years—some generations before the memorial was created.

In 2004 Alaska did not lose a law enforcement officer in the line of duty. This year, no Alaskans have been added to the National Law Enforcement Officers Memorial and for this we are grateful.

During National Police Week we are reminded that the 17,000 people whose names are engraved on the Law Enforcement Officers Memorial were heroes not for the way they died but for the way they lived. It was Vivian Eney, the surviving spouse of U.S. Capitol Police Officer Christopher Eney, who coined that phrase.

For 51 weeks a year the stories behind those 17,000 names are known to family members and law enforcement colleagues. But during National Police Week the memorial comes alive as surviving family members and department colleagues decorate the memorial with shoulder patches, photographs, stories and poems. Ultimately this material will be available to the public 365 days a year at a museum that the Congress authorized to be constructed on Federal land in 2000.

The museum will be developed, constructed, owned and operated by the National Law Enforcement Officers Memorial Fund—the same nonprofit organization that built and now oversees the National Law Enforcement Officers Memorial. Construction is expected to commence in 2007 and the opening is slated for 2009.

The museum will replace a one room memorial visitor center in the storefront of a downtown office building and will educate millions of visitors about the tremendous contributions our law enforcement officers have made throughout our Nation's history. It is a worthy addition to the memorial and a project worthy of support by our colleagues and the Nation.

During the annual Police Week observance thousands of survivors of fallen law enforcement officers return to Washington, D.C., for the annual conference of the support group Concerns of Police Survivors. I was proud to welcome to my office the surviving family members of Kenai Police Department Officer John Patrick Watson whose name was inscribed on the National Law Enforcement Officers Memorial in 2004.

Laurie Heck Huckeba, the widow of fallen Alaska State Trooper Bruce Heck, who gave his life on January 10, 1997, has returned to our Nation's Capital in her role as Pacific Region Trustee of Concerns of Police Survivors. She could not come to Capitol Hill to visit with me because she was busy conducting orientation sessions for the survivors of fallen law enforcement officers who are attending the Concerns of Police Survivors meetings in Alexandria, VA for the first time. It was not so long ago that Laurie was attending her first survivors' conference and now she is helping other survivors rebuild their lives. Laurie was raised in Glennallen, AK. Although Laurie has relocated from Alaska to the Bakersfield, CA area, it is clear to me that the Alaskan spirit of giving and sharing still burns strong within her. Thank you, Laurie.

Mayor Steve Thompson of the City of Fairbanks has sent a wreath to be displayed at the National Law Enforcement Officers Memorial in memory of Patrol Officer John Kevin Lamm who gave his life on January 1, 1998. Thank you, Mayor Thompson.

The names of 42 Alaskans appear on the National Law Enforcement Officers Memorial. During National Police Week, which officially begins on May 15 and concludes on May 21 we will reflect on the contributions of each of these heroes here in Washington and in ceremonies in my State of Alaska.

To their colleagues in law enforcement and to the surviving members of these 41 Alaskans and to the family, friends and colleagues of the 17,000 men and women whose names appear on the National Law Enforcement Officers Memorial, let us remember during this National Police Week that ''Heroes Live Forever.''

In valor there is hope.

I ask unanimous consent that the names of these 42 individuals, their agencies and the date upon which each of their watches ended be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ALASKANS INSCRIBED ON THE NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

Richard J. Adair, Juneau Police Department, August 17, 1979

Doris Wayne Barber, Sitka Police Department, July 28, 1960

Gordon Brewster Bartell, Kodiak Police Department, January 15, 1983

Robert Lee Bittick, Alaska State Troopers, October 11, 1994

Leroy Garvin Bohuslov, Alaska Dept. of Fish and Game, March 5, 1964

Larry Robert Carr, Alaska State Troopers, December 11, 1974

Ignatius John Charlie, Alakanuk Police Department, May 10, 1985

Roland Edgar Chevalier, Jr., Alaska State Troopers, April 3, 1982

Dennis Finbar Cronin, Alaska State Troopers, February 18, 1974

Thomas Clifford Dillon, Bethel Police Department, November 19, 1972

Donald Thomas Dull, Juneau Police Department, October 19, 1964

Troy Lynn Duncan, Alaska State Troopers, May 19, 1984

Johnathan Paul Flora, Anchorage Police Department, September 8, 1975

Harry Biddington Hanson, Jr., Anchorage Police Department, July 17, 1986

Bruce A. Heck, Alaska State Troopers, January 10, 1997

James C. Hesterberg, Alaska Department of Corrections, November 19, 2002

Earl Ray Hoggard, Ketchikan Police Department, March 30, 1974

Anthony Crawford Jones, Dillingham Police Department, February 12, 1992
Harry C. Kavanaugh, Anchorage Police Department, January 3, 1924
Jimmy Earl Kennedy, Juneau Police Department, April 17, 1979
Harry Edward Kier, Anchorage Police Department, October 28, 1980
John Kevin Lamm, Fairbanks Police Department, January 1, 1998
Richard I. Luht, Jr. Internal Revenue Service, January 31, 1999
Alvin G. Miller, Fairbanks Police Department, November 2, 1908
Louie Gordon Mizelle, Anchorage Police Department, June 6, 1989
James A. Moen, Alaska Fish and Wildlife Protection, June 25, 2001
Kenneth G. Nauska, Craig Police Department, January 30, 1966
Thomas P. O'Hara, National Park Service, December 20, 2002
Karl William Reishus, Juneau Police Department, May 4, 1992
Frank Stuart Rodman, Alaska State Troopers, December 11, 1974
Hans-Peter L. Roelle, Alaska State Troopers, November 24, 2001
James Arland Rowland, Jr., Palmer Police Department, May 15, 1999
Dan Richard Seely, Anchorage Police Department, October 26, 1996
John David Stimson, Alaska Fish and Wildlife Protection, January 14, 1983
Benjamin Franklin Strong, Anchorage Police Department, January 4, 1968
John J. Sturgus, Anchorage Police Department, February 20, 1921
Claude Everett Swackhammer, Alaska Department of Public Safety, October 11, 1994
John Patrick Watson, Kenai Police Department, December 25, 2003
Charles H. Wiley, Seward Police Department, October 4, 1917
Gary George Wohfeil, Alaska Dept. of Fish and Game, March 5, 1964
Justin Todd Wollam, Anchorage Police Department, July 9, 2001
Ronald Eugene Zimin, South Nannek Village Public Safety Officer, October 21, 1986

Ms. CANTWELL. Mr. President, I rise today to say a few words in honor of our country's many dedicated law enforcement officers, and to thank them for their ongoing efforts to keep our families and communities safe. As my colleagues know, May 15 is National Peace Officers Memorial Day, and the week that follows marks National Police Week. Throughout this week, the United States honors the courage, devotion, and sacrifice of law enforcement officers from across the Nation, and recognizes their invaluable contributions to the well-being of our country.

First observed in 1962, National Police Week also provides us with an important opportunity to remember those we have lost in the line of duty. One hundred and fifty-three law enforcement officers lost their lives while serving in 2004, including three from my home State. Last month, their names were added to the National Law Enforcement Officers Memorial, offering a stark reminder of the sacrifice all law enforcement personnel stand prepared to make to protect the citizens they serve.

Sadly, Senior Boarder Patrol Agent Jeremy Wilson of Ferndale, Officer James G. Lewis of the Tacoma Police Department, and Sergeant Brad Crawford of the Clark County Sheriff's Department all lost their lives in the line of duty during 2004. The outpouring of community support that accompanied each loss underscores the immense appreciation and compassion felt by Americans for those ready to help in a time of need. I would like to join with my fellow Washingtonians and take a moment to pay tribute to Agent Wilson, Officer Lewis, and Sergeant Crawford for their generous spirit and tireless devotion to duty. By sharing a little bit about each of these officers with you, I hope to help honor their sacrifice.

Currently, there are over 10,000 Federal law enforcement officers deployed along our country's borders. The deserts, wilderness, and rivers that line many of our Nation's edges often present these agents with extreme and trying conditions that can sometimes lead to tragedy. On Sunday, September 19, 2004, Senior Border Patrol Agent Jeremy Wilson fell overboard during a patrol on the Rio Grande near Los Indios, TX. Soon after, the patrol boat capsized, sending the boat's captain and another officer, Agent Travis Attaway, into the turbulent, storm-fed river. A second border patrol boat was able to rescue the boat's captain, but Agents Wilson and Attaway were lost. Agent Wilson, a third generation Border Patrol Agent from Ferndale, WA, was 29 years old. His passing leaves a reminder of the dangers faced by officers who spend each day navigating extreme conditions on our Nation's frontiers.

Often, the randomness and chance surrounding a loss of life makes the event difficult to understand. Routine actions, preformed hundreds of times, can, without warning, end tragically. On Tuesday, April 27, 2004, Officer James G. Lewis, a 19-year veteran of Tacoma Police Department, lost his life when his motorcycle collided with a car that pulled in front of him as he rushed to help a fellow officer who had requested back-up. Officer Lewis was 45 years old. He was a member of Tacoma Pierce County Search & Rescue, and had served as a police officer in the Marine Corps. He is survived by his wife and son. He will be remembered for his willingness to help others and his readiness to put their needs before his own.

While our Nation's police officers spend each day working to limit violence, a call for help can sometimes lead to an outbreak of what law enforcement works so hard to prevent. On Friday, July 30, 2004, Sergeant Brad Crawford of the Clark County Sheriff's Department was killed when his patrol car was intentionally rammed by a truck fleeing the scene of a standoff. Sergeant Crawford was 49 years old. He had served as a law enforcement officer for over two decades and had been with the Clark County Sheriff's Department for 8 years. He is survived by his wife, five children, and three grandchildren.

The untimely and unnecessary loss of Agent Wilson, Officer Lewis, and Sergeant Crawford reminds us of the immense challenges that law enforcement officers face on a daily basis. They will each be remembered for their dedication and their desire to serve and help others. Our thoughts and prayers are with their families during this difficult time.

National Police week is a time to remember those we have lost and thank those who continue to serve. However, our gratitude extends far beyond this one week. Local, State, and Federal law enforcement stand ready at every hour, and their unending courage and sense of duty represents the very best of America. On behalf of the citizens of Washington State, I offer my thanks to the men and women who wake up every day, put on a uniform, and set out to make our country an even better place.

ADDITIONAL STATEMENTS

HONORING THE CAREER OF ARLO LEVISEN

• Mr. JOHNSON. Mr. President, I rise today to publicly honor the career of Mr. Arlo Levisen, superintendent of the Grant-Duel School District. After 15 years of dedicated service as Grant-Duel's top administrator, Arlo is retiring.

A native of Milbank, SD and son of a farmer and 40-year Grant County educator, Arlo graduated in 1962 from South Shore High School. He then went on to receive his Bachelor of Science degree from Aberdeen's Northern State College in 1967, graduating with a degree in elementary education and history.

Throughout the latter portion of the 1960s, Arlo taught at and was principal of various schools throughout South Dakota, including Yankton, Pine Ridge, Kyle, Lyman, and Deubrook School District. These diverse educational experiences allowed Arlo to understand and appreciate the various learning environments South Dakota has to offer.

In 1979, in addition to his position as principal of Lyman School District's elementary and junior high schools, Arlo took on the responsibility of serving as commodity supervisor of the South Dakota Department of Education's Child and Adult Nutrition Services. There he was responsible for annually purchasing 22 million pounds of USDA commodities and distributing them to 600 South Dakota institutions and reservations.

In 1984, Arlo became principal of the Pierre Indian Learning Center, a boarding school created solely for the purpose of educating Indian children with a history of behavioral disorders. As head of the learning center, Arlo oversaw 185 students ranging from first through eighth grades, as well as 40 staff members.

Following his time at the Pierre Indian Learning Center, Arlo accepted the position as superintendent of the

Grant-Duel School District, where he has remained for the last decade and a half. Throughout his tenure at Grant-Duel, Arlo has enhanced the lives of countless students by broadening their educational opportunities. For instance, he was instrumental in opening Watertown High School's classes to Grant-Duel students, thus enabling his students to experience all that a larger school district has to offer. As a result of this initiative, Grand-Duel students are often better prepared and able to adjust quickly to the enormous campus life that many encounter in college.

Additionally, Arlo played a vital role in establishing the Minnesota Border Schools Coalition, an association created to discuss and implement South Dakota and Minnesota's open enrollment policy. Not only is Arlo the current president of the organization, but under his leadership and direction, Grant-Duel School was the first school to accept a Minnesota student.

Throughout the years, thousands of students have benefited from Arlo's commitment to educational excellence, as have his colleagues. In 1991, Arlo helped establish and chair The South Dakota School Group Insurance Pool, a health insurance pool created to make affordable health insurance available to Grant-Duel faculty.

In addition to the hours he puts in as superintendent of the Grant-Duel School District, Arlo is vice-chairman of the board of directors for Pierre Odyssey World, Inc., he is a member of Capital City Bass Bandits, a volunteer advisor to the U.S. Forest Service, a member of the High Plains Wildlife Federation, and county chairman of the Hughes County Democratic Party.

The lives of countless people have been enormously enhanced by Arlo's talent and leadership as superintendent of the Grant-Duel School District. The State of South Dakota is a better place because of his commitment to and passion for academic excellence; his achievement will serve as a model for other talented educators and administrators throughout our State to emulate. On the occasion of his retirement, I congratulate Arlo for his tireless commitment to quality education in South Dakota, and I wish him and his family the very best.●

CONGRATULATING THE TEAM INDIANA OUTLAWS

● Mr. LUGAR. Mr. President, I wish to inform my colleagues of the remarkable feat reached by a dedicated group of young women from my home State of Indiana, qualification for the 2005 USA Junior Olympic Girl's Volleyball Championships.

The Team Indiana Outlaws, consisting of nine young women well coached by Larry Leonhardt and Erika Dobrota, will represent the State of Indiana and their Team Indiana Volleyball Club in the 13 and Under Division of the 26th Annual USA Junior Olympic Girl's Volleyball Championships held this year in Salt Lake City, Utah. From June 29, 2005 through July 3, 2005, the Team Indiana Outlaws will compete against a number of other national teams who have likewise qualified for this tournament.

I commend these nine young women for their hard work and discipline that culminated in their qualification for competition against equally dedicated national opponents. I am additionally pleased that their tutelage came at the hands of two fine Hoosiers, Coaches Leonhardt and Dobrota, who have been mainstays in the Indiana volleyball community for a number of years. I am confident that the Team Indiana Outlaws will not only play with distinguished efforts, but also demonstrate the good sportsmanship that is prevalent in Indiana athletics.

The names of the Team Indiana Outlaws are as follows: Coaches: Larry Leonhardt, Erika Dobrota; players: Sammi Deer, Shelby Hiltunen, Megan Neher, Alli Norris, Lauren Rafdal, Emily Reber, Lucy Reser, Kasey Ruppe, and Allison Snyder.●

HONORING GEORGE REDMAN

● Mr. CHAFEE. Mr. President, today I wish to pay tribute to George Redman of East Providence, RI. The Greenways Alliance of Rhode Island, the Ocean State Bike Path Association, and the Narragansett Bay Wheelman are honoring George tonight for his ''Spirit, Dedication and Commitment to Rhode Island Greenways.''

George is an active neighborhood volunteer, an avid bicyclist, an amateur genealogist, historian, and sailor. His extraordinary service during World War II aboard the USS Mississippi began a career of service to his community and country.

He has dedicated much of his life to the revitalization of the East Providence waterfront, beginning with a shoreline cleanup that he organized as an Assistant Master of a Boy Scout troop. His efforts continued with his work as chairman of the Fort Hill Waterfront Park Committee, the East Providence Beautification Committee, the East Providence Shoreline Committee, and the Narragansett Bay Commission Advisory Council.

I would especially like to commend George for his vital role advocating for the East Bay Bike Path. This 14-mile trail, built on an abandoned railway connecting East Providence to the coastal towns of Barrington, Warren, and Bristol, has been hailed as a national example of the benefits of recreational trails. In the early 1980s, George headed a petition effort that received more than 4,200 signatures and spurred the Rhode Island Department of Transportation to complete the path in 1992. His bike path advocacy has earned him recognition in the Christian Science Monitor, the Providence Journal, Rails to Trails Magazine, and other local media outlets covering bike path and waterfront-related issues.

Active for many years in local politics, George was elected a delegate to the 1986 Rhode Island Constitutional Convention. He has received numerous letters of appreciation and recognition from past Governors and Federal, State, and local officials. It was my privilege to take a bike ride with George last August on the newly constructed Washington Secondary Bike Path that runs from Cranston to Coventry, RI. As I said at the time, if the East Bay Bike Path had not been built, there would not have been the momentum to go forward with other trails.

George has been married for 53 years to his wife, Adeline, and they have two children, Paul and Mary, and three grandchildren.

George Redman's success in pushing for the East Bay Bike Path affirms the notion that members of grassroots organizations can partner with state and federal agencies to improve the quality of life in their communities. I am delighted to join in recognizing his achievements, and his passion for the environment and public recreation.●

ALICE YARISH: IN MEMORIAM

● Mrs. BOXER. Mr. President, I rise to honor and share with my colleagues the memory of a very special woman, Alice Yarish of Marin County, who died May 9, 2005. She was 96 years old.

Alice Yarish was an award-winning reporter and the Grande Dame of Marin journalism. I knew her during the 11 years she worked for the Pacific Sun, exposing political scandals and pushing for prison reform.

During her years as a journalist in Marin, Alice demonstrated personal courage and a strong commitment to social justice. Alice is most well known for her relentless coverage of prison reform and she continued to fight for prisoner rights and prison reform until her retirement from the Pacific Sun in 1981.

She went on to write her autobiography, ''Growing Old Disgracefully: Adventures of a Maverick Reporter.''

Alice was born in Goldfield, NV, where her father was a judge and her mother was one of the first women lawyers in the State. Her family moved to Redondo Beach, CA when she was still young. After graduating from high school, Redondo Beach is where Alice began her long and passionate career as a journalist.

Alice worked for the Los Angeles Express when she interviewed First Lady Eleanor Roosevelt. Out enjoying a bicycle ride wearing shorts and a sweatshirt, Alice spotted Mrs. Roosevelt entering a beachfront hotel and ran after her to request an interview. She was granted the interview, which shocked and amazed her editors.

After her stint at the Los Angeles Express, Alice left journalism to attend college and law school at the University of Southern California. Financial problems during the Depression led her to leave law school early, and she took

a job as a social worker with the Emergency Relief Administration. She left this job when she married career military man, Peter Yarish, and moved with him to Hamilton Air Force Base in Novato.

Alice raised four children and returned to journalism when she was 42 years old. She wrote for the Marin Independent Journal, the Novato Advance, the Santa Rosa Press Democrat and the San Francisco Examiner. But it was at the Pacific Sun where she really made a name for herself as a unique, outspoken woman journalist.

Those who knew Alice viewed her as a sharp and witty reporter with a tremendous sense of curiosity. She took pride in uncovering injustice at every level of government. She stood out as a passionate watchdog with an incredible capacity for building friendships throughout the local community. Alice was deeply-respected by fellow journalists, editors and elected officials. She will be deeply missed.

Alice is survived by her four children, Tim Yarish of Sausalito, Thomas Yarish of Mill Valley, Anthony Yarish of Cotati, and Robin Ell of Portland, OR. She is also survived by seven grandchildren and three great grandchildren.●

TRIBUTE TO GREGORY PRINCE

● Mr. KENNEDY. Mr. President, this month Hampshire College in Amherst, MA says goodbye to Greg Prince, who has served so impressively as its President since 1989. Dr. Prince came to Hampshire after a distinguished academic career as a professor of history and administrator at Dartmouth College, and he has spent the past 16 years building a strong record for Hampshire.

Hampshire is a young college founded in 1970 as a model of interdisciplinary education without conventional grades. Its unique college setting promotes independent thought and activism on public policy, while at the same time participating in a five college consortium with traditional colleges Smith, Mount Holyoke, Amherst and the University of Massachusetts.

Greg Prince is a president who believes in wide-ranging discussion, and so Hampshire students are encouraged to be active participants in the dialogue and activities of the college. He believes strongly that the institution must have a vision, and the president must support and encourage that vision. In Hampshire's case, the vision is firmly grounded in the value of social justice.

Prior to his presidency, Hampshire had become the first college in the country to divest its stock in corporations doing business in South Africa. Greg Prince continued to set an example in everything he did. He has had an indelible impact on the campus by his strong commitment to the college's mission of self-expression and action. He has inspired all of us through his leadership on issues that affect college education—particularly on student aid and academic freedom. Through his speaking, his writing and most importantly his actions—he has demonstrated his commitment to the quality and diversity of higher education.

Greg Prince has served Hampshire College, the Commonwealth of Massachusetts, and the Nation well, and I know I join his many friends and admirers in extending our gratitude for his extraordinary service and our best wishes for the next phase of his outstanding career.●

TRIBUTE TO CENTRAL ACADEMY HIGH SCHOOL

● Mr. HARKIN. Mr. President, I come to the floor today, to congratulate students from Central Academy High School in Des Moines, IA, who competed in national finals of the ''We the People: The Citizen and the Constitution'' program in Washington, DC, earlier this month. The students won the Unit Three Award at the competition. This was the second year in a row that students from Michael Schaffer's government classes have won this prestigious recognition. These outstanding young Iowans competed against classes from every State in the country, and earned the highest score by demonstrating a remarkable understanding of the fundamental ideals and values of American constitutional government. Clearly, the future of democracy is in good hands, as demonstrated by the skill, knowledge and poise shown by these students.

I recognize and salute the students from Des Moines and surrounding suburbs who were involved in the competition: Emily Burney, Julia Busiek, Kate Conlow, Tim Di Iulio, Jon Hill, Lisa Jefferson, Alix Lifka-Reselman, Phillip R. Miller, Ben Miller-Todd, David Nolan, Caroline Rendon, Andrew Tatge, Erin Turner, Emily Yarn.

The ''We the People'' program is administered by the Center for Civic Education. It is the most extensive program of its kind, reaching more than 26 million students in elementary, middle, and high schools. In Iowa, ''We the People'' is coordinated by Linda Martin and Ivette Bender is the district coordinator for the area that serves Des Moines. I salute them also for their hard work and dedication to this excellent program.●

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.)

MESSAGE FROM THE HOUSE

At 4:38 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1817. An act to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1817. An act to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 1061. A bill to provide for secondary school reform, and for other purposes.

S. 1062. A bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 1084. A bill to eliminate child poverty, and for other purposes.

S. 1085. A bill to provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families.

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–2251. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Anchorage Ground; Pacific Ocean at Santa Catalina Island, CA [CGD11–04–006]'' (RIN1625–AA01) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2252. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations: Annual Fort Myers Beach Air Show, Fort Myers Beach, FL [CGD07–05–012]'' (RIN1625–AA08) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2253. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations (including 2 regulations): [CGD11–05–

004] [CGD05–05–047]'' (RIN1625–AA08) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2254. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations; Chelsea River, MA [CGD01–05–022]'' (RIN1625–AA09) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2255. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations (including 4 regulations): [CGD08–05–027], [CGD07–05–041], [CGD01–05–039], [CGD08–05–028]'' (RIN1625–AA09) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2256. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Bering Sea, Aleutian Islands, Unalaska Island, AK [COPT Western Alaska-04–003]'' (RIN1625–AA00) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2257. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Gulf Gateway Deepwater Port, Gulf of Mexico [USCG–2005–21111]'' (RIN1625–AA00) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2258. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Fireworks Displays within the Fifth Coast Guard District [CGD05–05–013]'' (RIN1625–AA00) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2259. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD–11 and -11F Airplanes'' ((RIN2120–AA64) (2005–0240)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2260. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: General Electric Company CF6–80E1A2 Turbofan Engines'' ((RIN2120–AA64) (2005–0241)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2261. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 9 31 and DC 9 32 Airplanes'' ((RIN2120–AA64) (2005–0242)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2262. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Bird Ingestion Standards; CORRECTION'' ((RIN2120–AF84) (2005–0001)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2263. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Sidney, NE'' ((RIN2120–AA66) (2005–0112)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2264. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (61); Amdt. No. 3078'' ((RIN2120–AA65) (2005–0016)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2265. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Pennsylvania, New Jersey, Delaware'' ((RIN2120–AA66) (2005–0113)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2266. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Aging Aircraft Safety; CORRECTING AMENDMENT'' ((RIN2120–AE42) (2005–0002)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2267. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Reduced Vertical Separation Minimum in Domestic United States Airspace; TECHNICAL AMENDMENT'' ((RIN2120–AH68) (2005–0001)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2268. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Security Considerations for the Flightdeck on Foreign Operated Transport Category Airplanes; DISPOSITION OF COMMENTS'' ((RIN2120–AH70) (2005–0001)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2269. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''1–G Stalling Speed as a Basis for Compliance with Part 25 of the Federal Aviation Regulations; CORRECTION'' ((RIN2120–AD40) (2005–0001)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2270. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Federal Reserve Board's ninety-first annual report; to the Committee on Banking, Housing, and Urban Affairs.

EC–2271. A communication from the Secretary of Commerce, transmitting, pursuant to law, a six-month report prepared by the Department of Commerce's Bureau of Industry and Security on the national emergency declared by Executive Order 13222; to the Committee on Banking, Housing, and Urban Affairs.

EC–2272. A communication from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''31 CFR Part 356, Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds—Bidder'' received on May 17, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2273. A communication from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''17 CFR Part 450, Government Securities Act Regulations: Custodial Holdings of Government Securities'' (RIN1505–AB06) received on May 17, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2274. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''HHS Designation of Additional Members of the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act''; to the Committee on Health, Education, Labor, and Pensions.

EC–2275. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Use of Ozone-Depleting Substances; Removal of Essential-Use Designations'' ((RIN0910–AF18) (Docket No. 2003P–0029)) received on May 17, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2276. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification regarding the proposed transfer of major defense equipment valued (in terms of its original acquisition cost) at $25,000,000 or more from the Government of the Netherlands to the Government of Portugal; to the Committee on Foreign Relations.

EC–2277. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Participation of Taiwan in the World Health Organization Act, 2004; to the Committee on Foreign Relations.

EC–2278. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–2279. A communication from the Biomass and Forest Health Program Manager, Wildland Fire Coordination, Office of the Secretary, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Woody Biomass Utilization'' (RIN1084–AA00) received on May 17, 2005; to the Committee on Environment and Public Works.

EC–2280. A communication from the Director, Pentagon Renovation and Construction Program Office, Department of Defense, transmitting, pursuant to law, the annual report on the Pentagon Renovation Program; to the Committee on Armed Services.

EC–2281. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report relative to defense Federally Funded Research and Development Centers (FFRDC); to the Committee on Armed Services.

EC–2282. A communication from the Assistant Under Secretary of Defense (Transportation Policy), Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a corrected report relative to the Department's implementation of postal system improvements; to the Committee on Armed Services.

EC–2283. A communication from the Chairman, Parole Commission, Department of Justice, transmitting, pursuant to law, the Commission's annual report for the year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–2284. A communication from the Acting Director, Office of General Counsel and Legal Policy, Office of Government Ethics,

transmitting, pursuant to law, the report of a rule entitled ''Technical Updating Amendments to Executive Branch Financial Disclosure and Standards of Ethical Conduct Regulations'' ((RIN3209–AA00) and (RIN3209–AA04)) received on May 17, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2285. A communication from the Acting Director, Strategic Human Resources Policy Division, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Absence and Leave'' (RIN3206–AK80) received on May 17, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2286. A communication from the Acting Director, Strategic Human Resources Policy Division, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Employment of Relatives'' (RIN3206–AK03) received on May 17, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2287. A communication from the Acting Director, Strategic Human Resources Policy Division, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Final Regulations on Computation of Pay for Biweekly Pay Periods'' (RIN3206–AK62) received on May 17, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2288. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a Certification to Congress Regarding the Incidental Capture of Sea Turtles in Commercial Shrimping Operations; to the Committee on Finance.

EC–2289. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Bureau of Labor Statistics Price Indexes for Department Stores—March 2005'' (Rev. Rul. 2005–34) received on May 18, 2005; to the Committee on Finance.

EC–2290. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Time for Performing Certain Acts Postponed by Reason of Service in a Combat Zone or a Presidentially Declared Disaster'' (Rev. Proc. 2005–27) received on May 18, 2005; to the Committee on Finance.

REPORT OF THE CONTINUATION OF THE NATIONAL EMERGENCY PROTECTING THE DEVELOPMENT FUND FOR IRAQ AND CERTAIN OTHER PROPERTY IN WHICH IRAQ HAS AN INTEREST, AND THE CENTRAL BANK OF IRAQ, AND TO MAINTAIN IN FORCE THE SANCTIONS TO RESPOND TO THIS THREAT—PM 11

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication. This notice states that the national emergency declared in Executive Order 13303 of May 22, 2003, as expanded in scope by Executive Order 13315 of August 28, 2003, modified in Executive Order 13350 of July 29, 2004, and further modified in Executive Order 13364 of November 29, 2004, is to continue in effect beyond May 22, 2005. The most recent notice continuing this emergency was published in the *Federal Register* on May 21, 2004 (69 FR 29409).

The threats of attachment or other judicial process against (i) the Development Fund for Iraq, (ii) Iraqi petroleum and petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale or marketing thereof, or (iii) any accounts, assets, investments, or any other property of any kind owned by, belonging to, or held by, on behalf of, or otherwise for the Central Bank of Iraq create obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq. Accordingly, these obstacles continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency protecting the Development Fund for Iraq, certain other property in which Iraq has an interest, and the Central Bank of Iraq, and to maintain in force the sanctions to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *May 19, 2005.*

2005 COMPREHENSIVE REPORT ON U.S. TRADE AND INVESTMENT POLICY FOR SUB-SAHARAN AFRICA AND IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT—PM 12

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

Consistent with title I of the Trade and Development Act of 2000, I am providing a report prepared by my Administration, the ''2005 Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act.''

GEORGE W. BUSH.

THE WHITE HOUSE, *May 19, 2005.*

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted on Wednesday, May 18, 2005:

By Mr. ENZI for the Committee on Health, Education, Labor, and Pensions.

*Raymond Simon, of Arkansas, to be Deputy Secretary of Education.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. LINCOLN (for herself and Mr. TALENT):

S. 1076. A bill to amend the Internal Revenue Code of 1986 to extend the excise tax and income tax credits for the production of biodiesel; to the Committee on Finance.

By Mrs. LINCOLN:

S. 1077. A bill to amend the Internal Revenue Code of 1986 to provide a renewable liquid fuels tax credit, and for other purposes; to the Committee on Finance.

By Mrs. LINCOLN:

S. 1078. A bill to amend the Internal Revenue Code of 1986 to expand and extend the renewable resource credit and nonconventional source credit for landfill gas facilities; to the Committee on Finance.

By Mrs. LINCOLN:

S. 1079. A bill to amend the Internal Revenue Code of 1986 to expand and extend the renewable resource credit for trash combustion facilities; to the Committee on Finance.

By Mr. JEFFORDS (for himself, Mr. LAUTENBERG, Mrs. BOXER, and Mr. LIEBERMAN):

S. 1080. A bill to amend the Safe Drinking Water Act to require the use of nontoxic products in the case of hydraulic fracturing that occurs during oil or natural gas production activities; to the Committee on Environment and Public Works.

By Mr. KYL (for himself, Ms. STABENOW, Mr. CORZINE, and Mr. TALENT):

S. 1081. A bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BOND, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. CHAMBLISS, Mr. COBURN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. ENSIGN, Mr. ENZI, Mr. HAGEL, Mr. HATCH , Mr. INHOFE, Mr. ISAKSON, Mr. KYL, Mr. LOTT, Ms. MURKOWSKI, Mr. NELSON of Nebraska, Mr. SESSIONS, Mr. SUNUNU, Mr. TALENT, Mr. THUNE, Mr. VITTER, Mr. SHELBY, Mr. DEMINT, and Mr. THOMAS):

S. 1082. A bill to restore Second Amendment rights in the District of Columbia; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HARKIN:

S. 1083. A bill to provide coverage under the Railway Labor Act to employees of certain air and surface transportation entities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY:

S. 1084. A bill to eliminate child poverty, and for other purposes; read the first time.

By Mr. KENNEDY (for himself, Mr. DURBIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. HARKIN, Mr. DODD, Mr. LAUTENBERG, Mr. CORZINE, Mr. AKAKA, Mrs. BOXER, Mr. FEINGOLD, Mr. SCHUMER, and Mr. DAYTON):

S. 1085. A bill to provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families; read the first time.

By Mr. HATCH:

S. 1086. A bill to improve the national program to register and monitor individuals who commit crimes against children or sex offenses; to the Committee on the Judiciary.

By Mr. ALEXANDER (for himself and Mr. SCHUMER):

S. 1087. A bill to amend section 337 of the Immigration and Nationality Act to prescribe the oath or affirmation of renunciation and allegiance required to be naturalized as a citizen of the United States; to the Committee on the Judiciary.

By Mr. KYL:

S. 1088. A bill to establish streamlined procedures for collateral review of mixed petitions, amendments, and defaulted claims, and for other purposes; to the Committee on the Judiciary.

By Mr. AKAKA (for himself, Mr. COCHRAN, and Mr. DODD):

S. 1089. A bill to establish the National Foreign Language Coordination Council to develop and implement a foreign language strategy, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. SNOWE (for herself and Mr. SARBANES):

S. Res. 149. A resolution honoring the life and contributions of His Eminence, Archbishop Iakovos, former archbishop of the Greek Orthodox Archdiocese of North and South America; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Mr. SMITH, and Mr. MARTINEZ):

S. Res. 150. A resolution expressing continued support for the construction of the Victims of Communism Memorial; considered and agreed to.

By Mr. FRIST (for himself, Mr. REID, Mr. MARTINEZ, Mr. LAUTENBERG, Mr. INHOFE, Mr. LIEBERMAN, and Mrs. DOLE):

S. Res. 151. A resolution recognizing the 57th Anniversary of the Independence of the State of Israel; considered and agreed to.

By Mr. SMITH (for himself, Mrs. FEINSTEIN, and Mr. DURBIN):

S. Con. Res. 35. A concurrent resolution expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania; considered and agreed to.

ADDITIONAL COSPONSORS

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 327

At the request of Mr. SANTORUM, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to expand the tip credit to certain employers and to promote tax compliance.

S. 392

At the request of Mr. LEVIN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 473

At the request of Ms. CANTWELL, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 473, a bill to amend the Public Health Service Act to promote and improve the allied health professions.

S. 502

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 502, a bill to revitalize rural America and rebuild main street, and for other purposes.

S. 665

At the request of Mr. DORGAN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 665, a bill to reauthorize and improve the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 to establish a program to commercialize hydrogen and fuel cell technology, and for other purposes.

S. 671

At the request of Mr. LIEBERMAN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 671, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for certain fuel cell property.

S. 914

At the request of Mr. ALLARD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 914, a bill to amend the Public Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 988

At the request of Mr. SESSIONS, the names of the Senator from North Carolina (Mr. BURR) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S. 988, a bill to permanently repeal the estate and generation-skipping transfer taxes.

S. 1010

At the request of Mr. SANTORUM, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 1010, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program.

S. 1022

At the request of Mrs. LINCOLN, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit.

S. 1064

At the request of Mr. COCHRAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1064, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1068

At the request of Mrs. DOLE, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1068, a bill to provide for higher education affordability, access, and opportunity.

S.J. RES. 12

At the request of Mr. HATCH, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S.J. Res. 12, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S.J. RES. 18

At the request of Mrs. FEINSTEIN, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S.J. Res. 18, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S. CON. RES. 11

At the request of Mr. SESSIONS, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Con. Res. 11, a concurrent resolution honoring the Tuskegee Airmen for their bravery in fighting for our freedom in World War II, and for their contribution in creating an integrated United States Air Force.

AMENDMENT NO. 762

At the request of Mr. NELSON of Florida, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of amendment No. 762 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy,

to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. LINCOLN (for herself and Mr. TALENT):

S. 1076. A bill to amend the Internal Revenue Code of 1986 to extend the excise tax and income tax credits for the production of biodiesel; to the Committee on Finance.

Mr. TALENT. Mr. President, today Senator LINCOLN and I introduce legislation to extend the current excise tax credit for biodiesel through 2010. This tax credit brings great benefits to our nation's economy and environment while at the same time reducing our dependence on foreign oil.

Biodiesel is a cleaner burning alternative to petroleum-based diesel, and it is made from renewable resources like soybeans and other natural fats and oils, grown here in the United States. It works in any diesel engine with few or no modifications. It can be used in its pure form (B100), or blended with petroleum diesel at a level—most commonly 20 percent (B20). Soybean farmers in Missouri and across the Nation have invested millions of dollars to build a strong and viable biodiesel industry.

In last years JOBS bill, we created an excise tax credit for biodiesel; a $1/gallon credit for biodiesel produced from virgin oils, and a $0.50/gallon credit for biodiesel produced from yellow grease or recycled cooking oil. This important tax credit is set to expire in less than 2 years. It is imperative that we extend this incentive that is expected to increase domestic energy security, reduce pollution and stimulate the economy.

I certainly would prefer to fill up my tank with a clean burning fuel grown by farmers in our Nation's heartland instead of petroleum imported from the Saudis. Our farmers pose no security risks. I'm not alone in this preference. More than 400 major fleets use biodiesel commercially nationwide. About 300 retail filling stations make biodiesel available to the public, and more than 1,000 petroleum distributors carry it nationwide.

I am pleased that we will soon have a biodiesel plant in Missouri. Missouri Soybean Association and Mid-America Biofuels LLC recently announced plans to build a biodiesel plant in Mexico, MO. The plant is expected to produce 30 million gallons of biodiesel annually. There is strong support for this endeavor and they have exhibited exceptional leadership by bringing this plant to Missouri. I look forward to working with them.

As I've said before, biodiesel is a fuel of the future that we can use today. It is nontoxic, biodegradable and essentially free of sulfur and aromatics. Biodiesel offers similar fuel economy, horsepower and torque to petroleum diesel while providing superior lubricity. It significantly reduces emissions of carbon monoxide, particulate matter, unburned hydrocarbons and sulfates. On a lifecycle basis, biodiesel reduces carbon dioxide emissions by 78 percent compared to petroleum diesel. In other words, biodiesel is good for your car and the environment.

Additionally, this new value added market for soybeans brings jobs to our economy and benefits to farmers. Based on the USDA baseline estimates for future soybean production, over a five year time period the biodiesel tax incentive could add almost $1 billion directly to the bottom line of U.S. farm income. In addition, the provisions will significantly benefit the U.S. economy and could increase U.S. gross output by almost $7 billion.

I want to thank Senator LINCOLN and Senator GRASSLEY for their leadership on this important issue. We need to prevent this tax credit from expiring. It is expected to increase biodiesel demand from an estimated 30 million gallons in fiscal year 2004 to at least 124 million gallons per year, based on a U.S. Department of Agriculture study.

By Mr. JEFFORDS (for himself, Mr. LAUTENBERG, Mrs. BOXER, and Mr. LIEBERMAN):

S. 1080. A bill to amend the Safe Drinking Water Act to require the use of nontoxic products in the case of hydraulic fracturing that occurs during oil or natural gas production activities; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President, I would like to thank Senators LAUTENBERG, BOXER, and LIEBERMAN for working with me to introduce this important legislation, the Hydraulic Fracturing Safety Act of 2005.

Over half of our Nation's fresh drinking water comes from underground sources. The process of hydraulic fracturing threatens our drinking water supplies. Hydraulic fracturing occurs when fluids are injected at high rates of speed into rock beds to fracture them and allow easier harvesting of natural oils and gases. It is these injection fluids that are of high concern.

In a recent report, the EPA acknowledged that these fluids, many of them toxic and harmful to people, are pumped directly into or near underground sources of drinking water. This same report cited earlier studies that indicated that only 61 percent of these fluids are recovered after the process is complete. This leaves 39 percent of these fluids in the ground, risking contamination of our drinking water.

Let me share with you the story of Laura Amos, a resident of Colorado who suffers from ill health effects today. In May of 2001, while an oil and gas well was being hydraulically fractured near her home, the metal top of her drinking well exploded into the air. At the same time, her water became bubbly and developed a horrible odor.

For three months, she was provided alternate drinking water by Ballard, later know as Encana, the company that owned the well near her home. It took this long until her water appeared normal again. Laura and her family drank from this well over the next couple of years. It was then that Laura developed a rare adrenal-gland tumor. During this time, Laura began actively investigating the chemicals used during the hydraulic fracturing of a well near her home. She learned about a chemical called 2–BE, which was later linked to adrenal-gland tumors in rodents.

Litigation over the last several years has resulted in findings that hydraulic fracturing should be regulated as part of the underground injection control program in the Safe Drinking Water Act. Yet, EPA indicates in writing that they have no intention of publishing regulations to that effect or ensuring that state programs adequately regulate hydraulic fracturing.

I ask unanimous consent that a series of letters to EPA and their responses dated October 14, 2004 and December 7, 2004, be inserted in the RECORD.

In June of 2004, an EPA study on hydraulic fracturing identified diesel as a ''constituent of potential concern.'' Prior to this, EPA had entered into a Memorandum of Agreement with three of the major hydraulic fracturing corporations, whom all voluntarily agreed to ban the use of diesel, and if necessary select replacements that will not cause hydraulic fracturing fluids to endanger underground sources of drinking water. However, all parties acknowledged that only technically feasible and cost-effective actions to provide alternatives will be sought.

Hydraulic fracturing needs to be regulated under the Safe Drinking Water Act and it has got to start now. It is unconscionable to allow the oil and gas industry to pump toxic fluids into the ground.

My bill, the Hydraulic Fracturing Safety Act of 2005, clarifies once and for all that hydraulic fracturing is part of the Underground Injection Control Program regulated under the Safe Drinking Water Act.

This legislation also bans the use of diesel and other toxic pollutants for oil and natural gas exploration.

Lastly, this legislation requires EPA to ensure that States adequately regulate hydraulic fracturing activities in all States to ensure that companies area adhering to our Nation's laws and conducting business in a manner safe for all Americans.

We need to do the right thing, and take action now to protect our Nation's drinking water supply. According to the oil and gas industry, 90 percent our oil and gas wells will be accessed through hydraulic fracturing. Congress and the EPA have to work together to provide a consistent and safe supply of drinking water for all Americans.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, October 14, 2004.

Administrator MICHAEL O. LEAVITT,
Environmental Protection Agency, Ariel Rios Building, Washington, DC.

DEAR ADMINISTRATOR LEAVITT: We are writing to you regarding the Environmental Protection Agency's (EPA's) administration of the Safe Drinking Water Act (SDWA) as it pertains to hydraulic fracturing. In recent months, the Agency has taken several key actions on this issue:

On December 12, 2003, the EPA signed a Memorandum of Understanding with three of the largest service companies representing 95 percent of all hydraulic fracturing performed in the U.S. These three companies, Halliburton Energy Services, Inc., Schlumberger Technology Corporation, and BJ Services Company, voluntarily agreed not to use diesel fuel in their hydraulic fracturing fluids while injecting into underground sources of water for coalbed methane production.

In June of 2004, EPA completed its study on hydraulic fracturing impacts and released its findings in a report entitled, ''Evaluation of Impacts to Underground Sources of Drinking Water by Hydraulic Fracturing of Coalbed Methane Reservoirs. The report concluded that hydraulic fracturing poses little chance of contaminating underground sources of drinking water and that no further study was needed.

On July 15, 2004, the EPA published in the Federal Register its final response to the court remand *(Legal Environmental Assistance Foundation (LEAF), Inc.*, v. *United States Environmental Protection Agency*, 276 F. 3d 1253). The Agency determined that the Alabama underground injection control (UIC) program for hydraulic fracturing, approved by EPA under section 1425 of the SDWA, complies with Class II well requirements.

We are concerned that the Agency's execution of the SDWA, as it applies to hydraulic fracturing, may not be providing adequate public health protection, consistent with the goals of the statute.

First, we have questions regarding the information presented in the June 2004 EPA Study and the conclusion to forego national regulations on hydraulic fracturing in favor of an MOU limited to diesel fuel. In the June 2004 EPA Study, EPA identifies the characteristics of the chemicals found in hydraulic fracturing fluids, according to their Material Safety Data Sheets (MSDSs), identifies harmful effects ranging from eye, skin, and respiratory irritation to carcinogenic effects. EPA determines that the presence of these chemicals does not warrant EPA regulation for several reasons. First, EPA states that none of these chemicals, other than BTEX compounds, are already regulated under the SDWA or are on the Agency's draft Contaminant Candidate List (CCL). Second, the Agency states that it does not believe that these chemicals are present in hydraulic fracturing fluids used for coalbed methane, and third, that if they are used, they are not introduced in sufficient concentrations to cause harm. These conclusions raise several questions:

1. The data presented in the June 2004 EPA study identifies potential harmful effects from the chemicals listed by the Agency in this report. Has the Agency or does the Agency plan to incorporate the results of this study and the fact that these chemicals are present in hydraulic fracturing agents into the CCL development process, and if not, why not?

2. In the June 2004 EPA study, the Agency concludes that hydraulic fracturing fluids do not contain most of the chemicals identified. This conclusion is based on two items—''conversations with field engineers'' and ''witnessing three separate fracturing events'' (June 2004 EPA Study, p. 4–17.)

a. How did the Agency select particular field engineers with whom to converse on this subject?

b. Please provide a transcript of the conversations with field engineers, including the companies or consulting firms with which they were affiliated.

c. How did the Agency select the three separate fracturing events to witness?

d. Were those events representative of the different site-specific characteristics referenced in the June 2004 study (June 2004 EPA Study, p. 4–19) as determining factors in the types of hydraulic fracturing fluids that will be used?

e. Which companies were observed?

f. Was prior notice given of the planned witnessing of these events?

g. What percentage of the annual number of hydraulic fracturing events that occur in the United States does ''3'' represent?

h. Finally, please explain why the Material Safety Data Sheets for the fluids identified as potentially being used in hydraulic fracturing list component chemicals that the EPA does not believe are present.

The Agency concludes in the June 2004 study that even if these chemicals are present, they are not present in sufficient concentrations to cause harm. The Agency bases this conclusion on assumed flowback, dilution and dispersion, adsorption and entrapment, and biodegradation. The June 2004 study repeatedly cites the 1991 Palmer study, ''Comparison between gel-fracture and water-fracture stimulations in the Black Warrior basin; Proceedings 1991 Coalbed Methane Symposium,'' which found that only 61 percent of the fluid injected during hydraulic fracturing is recovered. Please explain what data EPA collected and what observations the Agency made in the field that would support the conclusion that the 39 percent of fluids remaining in the ground are not present in sufficient concentrations to adversely affect underground sources of drinking water.

After identifying BTEX compounds as the major constituent of concern (June 2004 EPA study, page 4–15), the Agency entered into the MOU described above as its mechanism to eliminate diesel fuel from hydraulic fracturing fluids.

3. a. How does the Agency plan to enforce the provisions in the MOU and ensure that its terms are met?

b. For example, will the Agency conduct independent monitoring of hydraulic fracturing processes in the field to ensure that diesel fuel is not used?

c. Will the Agency require states to monitor for diesel use as part of their Class II UIC Programs?

4. a. Should the Agency become aware of an unreported return to the use of diesel fuel in hydraulic fracturing by one of the parties to the MOU, what recourse is available to EPA under the terms of the MOU?

b. What action does the Agency plan to take should such a situation occur?

c. Why did EPA choose to use an MOU as opposed to a regulatory approach to achieve the goal of eliminating diesel fuel in hydraulic fracturing?

d. What revisions were made to the June 2004 EPA study between the December 2003 adoption of the MOU and the 2004 release of the study? Which of those changes dealt specifically with the use and effects of diesel fuel in hydraulic fracturing?

e. The Agency also states that it expects that even if diesel were used, a number of factors would decrease the concentration and availability of BTEX. Please elaborate on the data EPA collected and the observations the Agency made in the field that would support the conclusion that the 39 percent of fluids remaining in the ground (1991 Palmer), should they contain BTEX compounds, would not be present in sufficient concentrations to adversely affect underground sources of drinking water.

We are also concerned that the EPA response to the court remand leaves several unanswered questions. The Court decision found that hydraulic fracturing wells ''fit squarely within the definition of Class II wells.'' (LEAF II, 276 F.3d at 1263), and remanded back to EPA to determine if the Alabama underground injection control program under section 1425 complies with Class II well requirements. On July 15, 2004, EPA published its finding in the Federal Register that the Alabama program complies with the requirements of the 1425 Class II well requirements. (69 FR No. 135, pp 42341.) According to EPA, Alabama is the only state that has a program specifically for hydraulic fracturing approved under section 1425. Based on this analysis, it seems that in order to comply with the Court's finding that hydraulic fracturing is a part of the Class II well definition, the remaining states should be using their existing Class II, EPA-approved programs, under 1422 or 1425, to regulate hydraulic fracturing.

To date, EPA has approved Underground Injection Control programs in 34 states. Approval dates range from 1981–1996.

5. Do you plan to conduct a national survey or review to determine whether state Class II programs adequately regulate hydraulic fracturing?

At the time that these programs were approved, the standards against which state Class II programs were evaluated did not include any minimum requirements for hydraulic fracturing. In its January 19, 2000 notice of EPA's approval of Alabama's 1425 program, the Agency stated, ''When the regulations in 40 CFR parts 144 and 146, including the well classifications, were promulgated, it was not EPA's intent to regulate hydraulic fracturing of coal beds. Accordingly, the well classification systems found in 40 CFR 144.6 and 146.5 do not expressly include hydraulic fracturing injection activities. Also, the various permitting, construction and other requirements found in Parts 144 and 146 do not specifically address hydraulic fracturing.'' (65 FR No. 12, p. 2892.)

Further, EPA acknowledges that there can be significant differences between hydraulic fracturing and standard activities addressed by state Class II programs. In the January 19, 2000 Federal Register notice, the Agency states: . . . since the injection of fracture fluids through these wells is often a one-time exercise of extremely limited duration (fracture injections generally last no more than two hours) ancillary to the well's principal function of producing methane, it did not seem entirely appropriate to ascribe Class II status to such wells, for all regulatory purposes, merely due to the fact that, prior to commencing production, they had been fractured.'' (65 FR No. 12, p. 2892.)

Although hydraulic fracturing falls under the Class II definition, the Agency has acknowledged that hydraulic fracturing is different than most of the activities that occur under Class II and that there are no national regulations or standards on how to regulate hydraulic fracturing.

6. In light of the Court decision and the Agency's July 2004 response to the Court remand, did the Agency consider establishing national regulations or standards for hydraulic fracturing or minimum requirements for hydraulic fracturing regulations under state Class II programs?

7. a. If so, please provide a detailed description of your consideration of establishing these regulations or standards and the rationale for not pursuing them.

b. Do you plan to establish such regulations or standards in the future?

c. If not, what standards will be used as the standard of measurement for compliance for hydraulic fracturing under state Class II programs?

We appreciate your timely response to these questions in reaction to the three recent actions taken by the EPA in relation to hydraulic fracturing—the adoption of the MOU, the release of the final study, and the response to the Court remand. Clean and safe drinking water is one of our nation's greatest assets, and we believe we must do all we can to continue to protect public health. Thank you again for your response.

Sincerely,

JIM JEFFORDS.
BARBARA BOXER.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, December 7, 2004.

Hon. JIM JEFFORDS,
U.S. Senate,
Washington, DC.

DEAR SENATOR JEFFORDS: Thank you for your letter to Administrator Michael Leavitt, dated October 14, 2004, concerning the recent actions that the Environmental Protection Agency (EPA) has taken in implementing the Underground Injection Control (UIC) program with respect to hydraulic fracturing associated with coalbed methane wells.

The Office of Ground Water and Drinking Water (OGWDW) has prepared specific responses to your technical and policy questions regarding how we conducted the hydraulic fracturing study, the reasons behind our decisions pertaining to the recommendations contained in the study, and any plans or thoughts we may have on the likelihood for future investigation, regulation, or guidance concerning such hydraulic fracturing.

Since the inception of the UIC program, EPA has implemented the program to ensure that public health is protected by preventing endangerment of underground sources of drinking water (USDWs). The Agency has placed a priority on understanding the risks posed by different types of UIC wells, and worked to ensure that appropriate regulatory actions are taken where specific types of wells may pose a significant risk to drinking water sources. In 1999, in response to concerns raised by Congress and other stakeholders about issues associated with the practice of hydraulic fracturing of coalbed methane wells in the State of Alabama, EPA initiated a study to better understand the impacts of the practice.

EPA worked to ensure that its study, which was focused on evaluating the potential threat posed to USDWs by fluids used to hydraulically fracture coalbed methane wells, was carried out in a transparent fashion. The Agency provided many opportunities to all stakeholders and the general public to review and comment on the Agency study design and the draft study. The study design was made available for public comment in July 2000, a public meeting was held in August 2000, public notice of the final study design was provided in the Federal Register in September 2000, and the draft study was noticed in the Federal Register in August 2002. The draft report was also distributed to all interested parties and posted on the internet. The Agency received more than 100 comments from individuals and other entities.

EPA's final June 2004 study, Evaluation of Impacts to Underground Sources of Drinking Water by Hydraulic Fracturing of Coalbed Methane Reservoirs, is the most comprehensive review of the subject matter to date. The Agency did not recommend additional study at this time due to the study's conclusion that the potential threat to USDWs posed by hydraulic fracturing of coalbed methane wells is low. However, the Administrator retains the authority under the Safe Drinking Water Act (SDWA) section 1431 to take appropriate action to address any imminent and substantial endangerment to public health caused by hydraulic fracturing.

During the course of the study, EPA could not identify any confirmed cases where drinking water was contaminated by hydraulic fracturing fluids associated with coalbed methane production. We did uncover a potential threat to USDWs through the use of diesel fuel as a constituent of fracturing fluids where coalbeds are co-located with a USDW. We reduced that risk by signing and implementing the December 2003 Memorandum of Agreement (MOA) with three major service companies that carry out the bulk of coalbed methane hydraulic fracturing activities throughout the country. This past summer we confirmed that the companies are carrying out the MOA and view the completion of this agreement as a success story in protecting USDWs.

In your letter, you asked about the Agency's actions with respect to hydraulic fracturing in light of LEAF v. EPA. In this case, the Eleventh Circuit held that the hydraulic fracturing of coalbed seams in Alabama to produce methane gas was ''underground injection'' for purposes of the SDWA and EPA's UIC program. Following that decision, Alabama developed—and EPA approved—a revised UIC program to protect USDWs during the hydraulic fracturing of coalbeds. The Eleventh Circuit ultimately affirmed EPA's approval of Alabama's revised UIC program.

In administering the UIC program, the Agency believes it is sound policy to focus its attention on addressing those wells that pose the greatest risk to USDWs. Since 1999, our focus has been on reducing risk from shallow Class V injection wells. EPA estimates that there are more than 500,000 of these wells throughout the country. The wastes injected into them include, in part, storm water runoff, agricultural effluent, and untreated sanitary wastes. The Agency and States are increasing actions to address these wells in order to make the best use of existing resources.

EPA remains committed to ensuring that drinking water is protected. I look forward to working with Congress to respond to any additional questions, or the concerns that Members of Congress or their constituents may have. If you have further comments or questions, please contact me, or your staff may contact Steven Kinberg of the Office of Congressional and Intergovernmental Relations at (202) 564–5037.

Sincerely,

BENJAMIN H. GRUMBLES,
Acting Assistant Administrator.

EPA RESPONSE TO SPECIFIC QUESTIONS REGARDING HYDRAULIC FRACTURING

1. The data presented in the June 2004 EPA study identifies potential harmful effects from the chemicals listed by the Agency in this report. Has the Agency or does the Agency plan to incorporate the results of this study and the fact that these chemicals are present in hydraulic fracturing agents into the Contaminant Candidate List (CCL) development process, and if not, why not?

Although the EPA CBM study found that certain chemical constituents could be found in some hydraulic fracturing fluids, EPA cannot state categorically that they are contained in all such fluids. Each fracturing procedure may be site specific or basin specific and fluids used may depend on the site geology, the stratigraphy, (i.e., type of coal formation), depth of the formation, and the number of coal beds for each fracture operation. The Agency's study did not develop new information related to potential health effects from these chemicals; it merely reported those potential health effects indicated on the Material Safety Data Sheet (MSDS) or other information we obtained from the service companies.

As noted in the final report, ''Contaminants on the CCL are known or anticipated to occur in public water systems . . .'' The extent to which the contaminants identified in fracturing fluids are part of the next CCL process will depend upon whether they meet this test.

2. In the June 2004 EPA study, the Agency concludes that hydraulic fracturing fluids do not contain most of the chemicals identified. This conclusion is based on two items—''conversations with field engineers'' and ''witnessing three separate fracturing events''.

a. How did the agency select particular field engineers with whom to converse on this subject?

The Agency did not ''select'' any of the engineers; we talked with the engineers who happened to be present at the field operations. In general those were engineers from the coalbed methane companies and the service companies who conducted the actual hydraulic fracturing. When we scheduled to witness the events, we usually conversed with the production company engineer to arrange the logistics and only spoke with the field engineers from the service companies at the well site.

b. Please provide a transcript of the conversations with field engineers, including the companies or consulting firms with which they were affiliated.

EPA did not prepare a word-for-word transcript of conversations with engineers.

c. How did the Agency select the three separate fracturing events to witness?

The events selected were dependent on the location of the fracturing events, the schedules of both EPA OGWDW staff and EPA Regional staff to witness the event, and the preparation time to procure funding and authorization for travel EPA witnessed the 3 events because the planning and scheduling of these happened to work for all parties. In one event, only EPA HQ staff witnessed the procedure, in another event only EPA Regional staff witnessed it, and in one event, both EPA HQ and Regional staff attended with DOE staff.

d. Were those events representative of the different site-specific characteristics referenced in the June 2004 study (p. 4–19)'' as determining factors in the types of hydraulic fracturing fluids that will be used?

Budget limitations precluded visits to each of the 11 different major coal basins in the U.S. It would have proven to be an expensive and time-consuming process to witness operations in each of these regions. Additionally, even within the same coal basin there are potentially many different types of well configurations, each of which could affect the fracturing plan. EPA believed that witnessing events in 3 very different coal basin settings—Colorado, Kansas, and south western Virginia—would give us an understanding of the practice as conducted in different regions of the country.

e. Which companies were observed?

EPA observed a Schlumberger hydraulic fracturing operation in the San Juan basin of Colorado, and Halliburton hydraulic fracturing operations in southwest Virginia and Kansas.

f. Was prior notice given of the planned witnessing of these events?

Yes, because it would have been very difficult to witness the events had they not been planned. To plan the visit, EPA needed to have prior knowledge of the drilling operation, the schedule of the drilling, and the scheduling of the services provided by the hydraulic fracturing service company. Wells, in general, take days to drill (in some cases weeks and months depending on depth of the well) and the fracturing may take place at a later date depending on the availability of the service company and other factors beyond anyone's control.

g. What percentage of the annual number of hydraulic fracturing events that occur in the United States does ''3'' represent?

Because of a limited project budget, EPA did not attempt to attend a representative number of hydraulic fracturing events; that would have been beyond the scope of this Phase I investigation. The primary purpose of the site visits was to provide EPA personnel familiarity with the hydraulic fracturing process as applied to coalbed methane wells. The visits served to give EPA staff a working-level, field experience on exactly how well-site operations are conducted, how the process takes place, the logistics in setting up the operation, and the monitoring and verification conducted by the service companies to assure that the fracturing job was accomplished effectively and safely. EPA understands that thousands of fracturing events take place annually, for both conventional oil and gas operations and coalbed methane production, and that three events represent an extremely small fraction of that total.

h. Finally, please explain why the Material Safety Data Sheets for the fluids identified as potentially being used in hydraulic fracturing list component chemicals that the EPA does not believe are present.

In Table 4–1 of the final study, EPA identified the range of fluids and fluid additives commonly used in hydraulic fracturing. Some of the fluids and fluid additives may contain constituents of potential concern, however, it is important to note that the information presented in the MSDS is for the pure product. Each of the products listed in Table 4–1 is significantly diluted prior to injection. The MSDS information we obtained is not site specific. We reviewed a number of data sheets and we noted that many of them are different, contain different lists of fluids and additives, and thus we concluded in the final report that we cannot say whether one specific chemical, or chemicals, is/are present at every hydraulic fracturing operation.

3. a. How does the Agency plan to enforce the provisions in the MOU and ensure that its terms are met?

There is no mechanism to ''enforce'' a voluntary agreement such as the MOA signed by EPA and the three major service companies. The MOA was signed in good faith by senior managers from the three service companies and the Assistant Administrator for Water, and EPA expects it will be carried out. EPA has written all signers of the MOA and asked if they have implemented the agreement and how will they ensure that diesel fuel is not being used in USDWs. All three have written back to EPA, stating that they have removed diesel from their CBM fracturing fluids when a USDW is involved and intend to implement a plan to ensure that such procedures are met. EPA intends to follow up with the service companies on progress in implementing such plans.

b. For example, will the Agency conduct independent monitoring of hydraulic fracturing processes in the field to ensure that diesel fuel is not used?

It is unlikely that EPA will conduct such field monitoring. First, in most oil and gas producing states, and coalbed methane producing states, the State Oil and Gas Agency generally has UIC primary enforcement responsibility, and the state inspectors are the primary field presence for such operations. Second, EPA has a very limited field staff and in most cases they are engaged in carrying out responsibilities related to Class I, III and V wells in states in which they directly implement the UIC program. EPA plans to work with several organizations, including the Ground Water Protection Council and the Independent Petroleum Association of America to determine if there are other smaller companies conducting CBM hydraulic fracturing with diesel fuel as a constituent and will explore the possibility of including them in the MOA.

c. Will the Agency require states to monitor for diesel use as part of their Class II programs?

Given limited funds for basic national and state UIC program requirements, EPA does not have plans to include the states as parties to the MOA or require them to monitor for diesel fuel in hydraulic fracturing fields. The State of Alabama's EPA-approved UIC program prohibits the hydraulic fracturing of coalbeds in a manner that allows the movement of contaminants into USDWs at levels exceeding the drinking water MCLs or that may adversely affect the health of persons. Current federal regulations do not expressly address or prohibit the use of diesel fuel in fracturing fluids, but the SDWA and UIC regulations allow States to be more stringent than the federal UIC program.

4. a. Should the Agency become aware of an unreported return to the use of diesel fuel in hydraulic fracturing by one of the parties to the MOD, what recourse is available to EPA under the terms of the MOD?

There are no terms in the MOA that would provide EPA a mechanism to take any enforcement action should the Agency become aware of an unreported return to the use of diesel fuel in hydraulic fracturing by one of the parties to the MOA. However, EPA would work closely with the companies to determine why such action occurred and discuss possible termination procedures. The agreement defines how either party can terminate the agreement. EPA would make every effort to work with such a company to maintain their participation in the agreement. EPA entered the agreement with an assumption that the companies would honor the commitments they have made about diesel use in hydraulic fracturing fluids.

b. What action does the Agency plan to take should such a situation occur?

If such a situation does happen, and EPA learns that diesel fuel used in hydraulic fracturing fluid may enter a USDW and may present an imminent and substantial threat to public health, EPA may issue orders or initiate litigation as necessary pursuant to SDWA section 1431 to protect public health. Otherwise, EPA would take the actions described under the previous question.

c. Why did EPA choose to use an MOU as opposed to a regulatory approach to achieve the goal of eliminating diesel fuel in hydraulic fracturing?

While the report's findings did not point to a significant threat from diesel fuel in hydraulic fracturing fluids, the Agency believed that a precautionary approach was appropriate. EPA chose to work collaboratively with the oil service companies because we thought that such an approach would work quicker, and be more effective than other approaches the Agency might employ (i.e. rulemaking, enforcement orders, etc.). We believed that once the service companies became familiar with the issue, they would willingly address EPA's concerns. After several months of meetings and negotiations between representatives of the service companies and high level management in EPA's Office of Water, a Memorandum of Agreement (MOA) was drafted and signed by all parties effective December 24, 2003.

We believe that the MOA mechanism accomplished the intended goal of removing diesel from hydraulic fracturing fluids in a matter of months, whereas proposing a rule to require removal would have taken at least a year or more.

d. What revisions were made to the June 2004 EPA study between the December 2003 adoption of the MOD and the 2004 release of the study? Which of those changes dealt specifically with the use and effects of diesel fuel in hydraulic fracturing?

During the specified time-frame, EPA focused on making editorial changes to the report and clarifying information relative to its qualitative discussion of the mitigating effects of dilution, dispersion, adsorption, and biodegradation of residual fluids. With respect to the use and effects of diesel fuel, changes in the study primarily focused on including language in the text of the report which acknowledged that we had successfully negotiated an MOA with the service companies. Specifically. EPA referenced this agreement in the text of the report in the Executive Summary at page ES–2 and on page BS–17 and further discussed the MOA in Chapter 7 in the Conclusions Section of the study.

e. The Agency also states that it expects that even if diesel were used a number of factors would decrease the concentration and availability of BTEX. Please elaborate on the data EPA collected and the observations the Agency made in the field that would support the conclusion that 39% of fluids remaining in the ground (1991 Palmer), should they contain BTEX compounds would not be present in sufficient concentrations to adversely affect underground sources of drinking water.

EPA reiterates that the 39% figure from the 1991 Palmer paper is only one instance where it has been documented what quantity of the hydraulic fracturing fluids injected into wells will remain behind. Dr. Palmer, who conducted the original research, estimated that coalbed methane production wells flow back a greater percentage of fracturing fluids injected during the process. Where formations are dewatered or produced for a substantial period of time, greater quantities of formation and fracturing fluids would presumably be removed. We used 39% remaining fluids as a ''worst case'' scenario while doing our qualitative assessment, since it was the only figure we had from research conducted on coalbed methane wells.

With respect to the BTEX compounds, we no longer believe that they are a concern owing to the MOA negotiated between EPA and the three major service companies.

5. Do you plan to conduct a national surveyor survey or review to determine whether state Class II programs adequately regulate hydraulic fracturing?

At this time, EPA has no plans to conduct such a survey or review regarding the adequacy of Class II programs in regulating hydraulic fracturing. In its final study design, EPA indicated that it would not begin to evaluate existing state regulations concerning hydraulic fracturing until it decided to do a Phase III investigation. The Agency, however, reserves the right to change its position on this if news information warrants such a change.

6. In light of the Court decision and the Agency's July 2004 response to the Court remand, did the Agency consider establishing national regulations or standards for hydraulic fracturing or minimum requirements for hydraulic fracturing regulations under Class II programs?

When State UIC programs were approved by the Agency—primarily during the early 1980s—there was no Eleventh Circuit Court decision indicating that hydraulic fracturing was within the definition of ''underground injection.'' Prior to LEAF v. EPA, EPA had never interpreted the SDWA to cover production practices, such as hydraulic fracturing. After the Court decision in 1997, the Agency began discussions with the State of Alabama on revising their UIC program to include hydraulic fracturing. The net result of that process was the EPA approval of Alabama's revised section 1425 SDWA UIC program to include specific regulations addressing CBM hydraulic fracturing. This approval was signed by the Administrator in December 1999, and published in the Federal Register in January 2000.

In light of the Phase I HF study and our conclusion that hydraulic fracturing did not present a significant public health risk, we see no reason at this time to pursue a national hydraulic fracturing regulation to protect USDWs or the public health. It is also relevant that the three major service companies have entered into an agreement with EPA to voluntarily remove diesel fuel from their fracturing fluids.

7. a. If so, please provide a detailed description of your consideration of establishing these regulations or standards and the rationale for not pursuing them. b. Do you plan to establish such regulations or standards in the future? c. If not, what standards will be used as the standard of measurement for compliance for hydraulic fracturing under state Class II programs?

EPA has not explored in any detailed fashion minimum national or state requirements for hydraulic fracturing of CBM wells, except when it evaluated the revised UIC program in Alabama.

Considering and developing national regulations for hydraulic fracturing would involve discussions with numerous stakeholders, the states, and the public and it would require an intensive effort to arrive at regulatory language that could be applied nationwide. As EPA's study indicates, coalbeds are located in very distinct geologic settings and the manner in which they are produced for methane gas may be very different in each locale. The proximity of USDWs to the coal formations, and the regional geology and hydrology all play roles in how hydraulic fracturing operations are conducted.

If EPA receives information of drinking water contamination incidents and follow-up investigations point to a problem, EPA would then re-evaluate its decision to not continue with additional study relating to CBM hydraulic fracturing.

Should additional states submit revised UIA programs for EPA's review and approval which include hydraulic fracturing regulations, we would evaluate these programs under the effectiveness standards of the SDWA section 1425 as we did for the State of Alabama.

S. 1080

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 ''Hydraulic Fracturing Safety Act of 2005''.

SEC. 2. HYDRAULIC FRACTURING.

Section 1421(d)(1) of the Safe Drinking Water Act (42 U.S.C. 300h(d)(1)) is amended—

(1) by adding at the end the following: ''The term 'underground injection' includes hydraulic fracturing, which means the process of creating a fracture in a reservoir rock, through the injection of fluids and propping agents, for the purpose of reservoir stimulation relating to oil and gas production activities.''; and

(2) by adding at the end the following:

''(3) HYDRAULIC FRACTURING.—

''(A) IN GENERAL.—In the case of hydraulic fracturing that occurs during the exploration for, or the production of, oil or natural gas, a producer of oil or natural gas shall not use diesel fuel or any other material that the Administrator has listed as a priority pollutant under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

''(B) REGULATIONS.—The Administrator shall promulgate such regulations as are necessary—

''(i) to regulate hydraulic fracturing in accordance with this subsection; and

''(ii) to ensure that State programs under section 1422 or 1425 regulate hydraulic fracturing in accordance with this subsection.''.

By Mr. KYL (for himself, Ms. STABENOW, Mr. CORZINE, and Mr. TALENT):

S. 1081. A bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007; to the Committee on Finance.

Mr. KYL. Mr. President, I rise today to introduce the Preserving Patient Access to Physicians Act of 2005. This bill updates Medicare physician reimbursement for 2006 and 2007 according to the recommendations of the Medicare Payment Advisory Committee (MedPAC). There would be a 2.7 percent increase to the physician payment schedule for 2006 and using the Medicare Economic Index update for the price of inputs, a 2.6 percent increase in 2007.

If the schedule is left alone, the consequences for physicians will be a negative. Instead of the 1.5 percent payment increase for 2004 and 2005 which I helped author in the Medicare Modernization Act, there would be a 4.3 percent decrease.

The sustainable growth rate (SGR) formula used to calculate physician payment depends on a number of factors: the number of Medicare fee-for-service beneficiaries, the volume and type of services provided, the price of services rendered, changes in regulations and laws. The formula also incorporates other factors such as prescription-drug prices and the gross domestic product. The SGR was intended to control expenditures by basing a given year's physician payment rate on the previous year's performance. Instead, it creates an arbitrary deficiency that continues to force Congress to intervene.

There is a debate going on, her CMS has the authority to alter the SGR formula by removing drugs. Setting that aside, though, the fact of the matter is that without Congress stepping in to provide for a physician payment update, it probably will not occur. My Senate colleagues and I have talked for many years about ensuring adequate physician payment because current and past administrations have failed to modify the formula. This formula is not doing what it was intended to do. Therefore, I believe we need to scrap it and start again. My bill is a starting point and proposes amounts for an update, but I would really like to see us go all the way back to the drawing board and answer the fundamental question of how to pay physicians appropriately for their services.

I want doctors to be able to continue to assist our nation's seniors, but it is unfair to expect them to practice and to have their reimbursement decrease. Practice expenses, the costs of medical technology, wages for administrative and clinical staff, and medical liability premiums are all increasing while physicians are on track to receive a payment decrease. They cannot afford to continue practicing medicine while receiving reimbursements that do not allow them to even break even. Many are retiring early or threatening to limit the number of Medicare patients they treat.

The service of physicians all across the country is vital to our seniors. Almost half a million doctors provide treatment to the 42 million people under the Medicare program. Physicians are often the gateway for access to other medical services and treatments. Not being able to consult a physician results in delayed referrals, delayed treatment and delayed care. In sum, the quality of health care continues to erode and our system does not operate efficiently.

Should the scheduled physician reimbursement cuts take effect, the result will be a $710 million decrease in payments to doctors in Arizona over 2006 through 2010. I have heard from virtually every physician with whom I have spoken about the constraints that inadequate payments are placing on their practice of medicine. While many work for hospitals and health systems, in the rural areas, a large number are solo practitioners or in small practices. For these physicians, poor payment hits their practice especially hard.

If Medicare rates for doctors are inadequate, many other health care payors will also lack for adequate reimbursement. Other payors such as Medicaid and private insurers often base their payments on Medicare rates. While this bill only addresses Medicare physician payment, the problem of access to services will be compounded if physicians receive reimbursement from other payors that is below the appropriate levels.

The cost of addressing the physician payment update is not cheap. Estimates on the cost of this bill are between $25 billion to $35 billion over five years. I await an official score from the Congressional Budget Office. But I point out, that doing nothing to solve this problem may cost us more: more money, more health and access problems, and more physicians leaving the profession. Although this legislation provides for a two year update, we must develop a long range mechanism to pay physicians appropriately.

I am grateful for the support of this legislation by my colleague, Senator

STABENOW of Michigan, and encourage my other colleagues to support the Preserving Patient Access to Physicians Act of 2005.

I ask unanimous consent that a letter of support be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, May 19, 2005.

Hon. JOHN KYL,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KYL: On behalf of the American Medical Association (AMA), we offer our strong support of your legislation, entitled the Preserving Patient Access to Physicians Act of 2005. We thank you for your leadership in introducing this legislation and providing a remedy to the steep Medicare physician payment cuts that are expected, beginning January 1, 2006.

The Medicare Trustees have recently predicted that Medicare payments for physicians' services will be cut by about 26 percent from 2006 through 2011. These cuts will critically impact access to medical services for our Nation's senior and disabled patients. A recent AMA survey concerning physician responses to significant Medicare physician pay cuts beginning January 1, 2006 indicates that if these cuts begin in 2006: 38 percent of physicians plan to decrease the number of new Medicare patients they accept; more than half of physicians plan to defer the purchase of information technology; and a majority of physicians will be less likely to participate in Medicare Advantage.

The expected cuts result from the inherently flawed payment update formula, the sustainable growth rate (SGR) spending target. The SGR is linked to the gross domestic product and penalizes physicians and other practitioners for volume increases that they cannot control and that the government actively promotes through new coverage decisions and other initiatives that, while beneficial to patients, are not reflected in the SGR.

The AMA applauds your leadership in addressing these cuts and introducing legislation that protects access to needed medical care. Your bill would provide a positive physician payment update of not less than 2.7 percent in 2006 and an update in 2007 that reflects physician practice cost inflation, which, at this time, is expected to be about 2.6 percent.

Your bill is critical for ensuring continued and long-term access to health care services for Medicare beneficiaries. We look forward to continuing to work with you to achieve enactment of your legislation, as well as long-term reform of the update formula.

Sincerely,

MICHAEL D. MAVES,
Executive Vice President, CEO.

Ms. STABENOW. Mr. President, I am very pleased to introduce the ''Preserving Patient Access to Physicians Act'' with my friend and colleague from Arizona, Senator KYL. This legislation is critical to ensuring that our Nation's 42 million Medicare beneficiaries continue to have access to high quality physician care.

The Medicare program is one of the most successful Federal programs of all time. It has lifted countless seniors out of poverty, and it has ensured access to necessary, affordable, quality medical care for our most vulnerable citizens for the last 40 years.

However, that success is threatened because the Medicare physician payment formula is fundamentally flawed. At a time when the doctors who treat our seniors are facing increasing practice costs, they are looking at a payment cut of 4.3 percent in 2006 for the Medicare services they provide that simply doesn't make sense.

And the cuts don't stop in 2006: if Congress doesn't act, physicians will be hit with devastating cuts totaling 22 percent over the next 5 years. Those cuts represent over $44 billion dollars nationwide, and a staggering $126 billion over the next 10 years.

Currently, over 20,000 MDs and DOs in Michigan treat over 1.4 million Medicare-eligible Michiganians with very high quality care. But if the doctors in my State receive their scheduled cut of $109 million next year, and over $5 billion over the next ten years, it's not hard to imagine that they may be forced to limit the number of Medicare patients they serve.

Numbers in the billions are indeed staggering—but the critical need for this legislation is even better demonstrated by getting down to the specifics: a Detroit physician currently is reimbursed $56.88 for an office visit. But while we all know medical inflation will continue to increase, under current law, that same physician will receive only $41.86 in 2011 for that same visit. And while an orthopedic surgeon in Detroit is now reimbursed $1,813.10 for performing a knee arthroplasty—a knee repair necessary to ensure full mobility—she is scheduled to receive $478.66 less for performing that same procedure in 2011! The examples go on and on: a cardiologist inserting a stent in a Medicare patient to prevent heart problems receives $873.85 today. The same surgeon inserting a stent in 2011 will be reimbursed only $643.15.

The ''Preserving Patient Access to Physicians Act of 2005'' provides physicians with a minimum update in 2006 and 2007. Specifically, the legislation overrides the Sustainable Growth Rate (SGR) formula in these years: the update to the single conversion factor in 2006 would be 2.7 percent, and a formula based on input prices and a productivity adjustment is used for 2007—the likely update for 2007 will be 2.6 percent.

Kevin Kelly, Executive Director of the Michigan State Medical Society, tells me that the minimum updates provided in this legislation are essential to both physicians and patients in Michigan in terms of assuring access to Medicare services.

And Robert Stomel, D.O., President of the Michigan Osteopathic Association, said that introduction of this legislation ''is an important step in efforts to protect the availability and access to physician services for millions of Medicare beneficiaries.'' Dr. Stomel went on to say, ''This bipartisan legislation represents a continued recognition that physician payment under Medicare must keep pace with the increasing cost of providing care.''

Yet I know that this is just the beginning. We cannot continue to use stop-gap measures but must replace the SGR with a payment system that actually makes sense and reflects the costs of providing physician care to Medicare beneficiaries.

Through the bipartisan partnership Senator KYL and I have begun today, we can—and must—fix the physician payment formula and continue to provide access to high-quality Medicare services for all of our seniors and people with disabilities.

I ask unanimous consent to have printed in the record letters of support from the American Medical Association and the American Osteopathic Association.

I urge my Colleagues to join us in this effort, and I thank the Chair.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, May 19, 2005.

Hon. DEBBIE A. STABENOW,
U.S. Senate, Washington, DC.

DEAR SENATOR STABENOW: On behalf of the American Medical Association (AMA), we offer our strong support of your legislation, entitled the Preserving Patient Access to Physicians Act of 2005. We thank you for your leadership in introducing this legislation and providing a remedy to the steep Medicare physician payment cuts that are expected, beginning January 1, 2006.

The Medicare Trustees have recently predicted that Medicare payments for physicians' services will be cut by about 26% from 2006 through 2011. These cuts will critically impact access to medical services for our nation's senior and disabled patients. A recent AMA survey concerning physician responses to significant Medicare physician pay cuts beginning January 1, 2006 indicates that if these cuts begin in 2006: 38% of physicians plan to decrease the number of new Medicare patients they accept; more than half of physicians plan to defer the purchase of information technology; and a majority of physicians will be less likely to participate in Medicare Advantage.

The expected cuts result from the inherently flawed payment update formula, the sustainable growth rate (SGR) spending target. The SGR is linked to the gross domestic product and penalizes physicians and other practitioners for volume increases that they cannot control and that the government actively promotes through new coverage decisions and other initiatives that, while beneficial to patients, are not reflected in the SGR.

The AMA applauds your leadership in addressing these cuts and introducing legislation that protects access to needed medical care. Your bill would provide a positive physician payment update of not less than 2.7% in 2006 and an update in 2007 that reflects physician practice cost inflation, which, at this time, is expected to be about 2.6%.

Your bill is critical for ensuring continued and long-term access to health care services for Medicare beneficiaries. We look forward to continuing to work with you to achieve enactment of your legislation, as well as long-term reform of the update formula.

Sincerely,

MICHAEL D. MAVES.

AMERICAN OSTEOPATHIC ASSOCIATION,
Washington, DC, May 19, 2005.

Hon. DEBBIE STABENOW,
U.S. Senate, Washington, DC.

DEAR SENATOR STABENOW: As President of the American Osteopathic Association (AOA), I am pleased to inform you of our strong support for the ''Preserving Patient Access to Physicians Act of 2005''. The AOA, which represents the nation's 54,000 osteopathic physicians practicing in 23 specialties and subspecialties, extends its sincere gratitude to you for introducing this bill.

The current sustainable growth rate (SGR) formula for physician services under the Medicare program is broken. The continued use of the flawed and unstable methodology will result in a loss of physician services for millions of Medicare beneficiaries. Physicians annually face reductions in payment while their practice costs continue to rise. Congress recognized this with the approval of the ''Medicare Prescription Drug, Improvement, and Modernization Act of 2003'' (MMA) (P.L. 108–173) which replaced scheduled physician payment reductions with modest increases of 1.5 percent per year for 2004 and 2005. Unfortunately, physicians now face a projected reduction of 4.3 percent for 2006, with additional reductions for the foreseeable future that could amount to over 30 percent.

Your legislation takes an important step to address the projected 2006 and 2007 reductions in physician payment under Medicare. Specifically, the bill would establish a minimum physician payment update of 2.7 percent per year for 2006 and 2007. A minimum update of 2.7 percent will help ensure a physician's continued ability to provide quality health care services to Medicare beneficiaries.

On behalf of my fellow osteopathic physicians, I pledge our support for your effort to address the flawed Medicare physician payment formula. We look forward to working with you to advance this important legislation. Please do not hesitate to call upon the AOA or our members for assistance on health care issues. Contact the AOA's Department of Government Relations at (202) 414–0140 for additional information.

Sincerely,

GEORGE THOMAS, D.O.,
President.

By Mr. KENNEDY:

S. 1084. A bill to eliminate child poverty, and for other purposes; read the first time.

Mr. KENNEDY. Mr. President, it is shameful that in the richest and most powerful Nation on earth, nearly a fifth of all children—nearly 13 million—live in poverty. That is why I am introducing the End Child Poverty Act to address this fundamental moral issue. It will set a national goal to reduce child poverty by half within a decade, and to eliminate it entirely as soon as possible after that.

The effect of child poverty is far reaching. Children in poverty are often malnourished. They have weaker immune systems and are more vulnerable to infections and illness. Poor children also suffer in school. They lack vital nutrition necessary for healthy brain development. They have trouble concentrating in class. They often attend schools that have the least resources. Their families move frequently, so their school attendance is low. Overcrowding, utility shutoffs, and poor heating interfere with homework.

The End Child Poverty Act would commit the U.S. to ending these horrors of children growing up in such dire conditions. The bill would establish a Child Poverty Elimination Board to make recommendations to the President on how best to meet this commitment to children. It would offset the cost with a one percent surtax on income over $1 million to be invested in a Child Poverty Elimination Fund.

We must begin with this moral vision, just as we did with America's seniors. The elderly were once the poorest in society. But in 1935, we made a commitment that growing old shouldn't mean growing poor. We enacted Social Security and later Medicare, and now the elderly in America are significantly better off. The End Child Poverty Act is a vital step to give comparable security to America's children.

It's time for America to make a real commitment, and give real hope, real opportunity and real fairness to children and families mired in poverty in communities in all parts of our country.

By Mr. HATCH:

S. 1086. A bill to improve the national program to register and monitor individuals who commit crimes against children or sex offenses; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, we are here today in a battle to save our children, their families, and the victims, of repeat sex offenders.

I am so proud of the real warriors in this battle: the victims and their family members. One of those warriors is Ed Smart, from my home State of Utah, whose daughter Elizabeth was kidnapped from her own bedroom by a sexual predator. Ed is joined by Patti Wetterling, Linda Walker, and other outstanding advocates of our children, including John Walsh of America's Most Wanted, Ernie Allen of the National Center for Missing and Exploited Children, and Robbie Calloway of the Boys & Girls Club of America in support of this bipartisan legislation we are introducing today along with cosponsor Senator BIDEN. We need legislation that will close the gaps in many laws already on the books; integrate and revive the existing laws; and expand covered offenses against children.

The Sex Offender Registration and Notification Act will bring all of the States up to date and enable citizens in every State to inform themselves about predators in their communities. This law will enable States to take public information about sex offenders and make it easy for citizens to access at one, open, web-site.

This legislation will put the responsibility on the sex offenders themselves to register with the local authorities. They will be required to notify those authorities when they move or change jobs. And if they don't want to comply with the rules—then they will go to jail!

This is common sense—those who break such a sacred trust and intend to harm our children, no matter who they are, where they are from, or where they commit their crime, should have some obligations under this law to voluntarily make their whereabouts known or subject themselves to additional jail time. That's what this bill is about. It's that simple.

The victims and victims' families have dealt with the pain and anguish imposed on them by these sexual offenders and predators. But instead of lying down, they are standing up for imposing common-sense rules on those who have taken the life and liberty of the most innocent and defenseless among us. They are standing up for tough sentences against those who won't abide by these very simple rules. They are standing up to say that together we are stronger.

Prior to 1994 just five states required convicted sex offenders to register their address with local law enforcement. Today there are over 549,000 registered sex offenders in the United States. Unfortunately, most of these receive and serve limited sentences and roam unchecked and unknown in our communities. Their crimes are heinous and they have a high risk of repeating their crimes on innocent children.

Under this Act, sex offenders and predators will be required to register in person, versus mailing in a letter. They will be required to wear a tracking device while they are on probation for a first-time offense—and wear it for life if they choose to repeat their crimes.

This Act enables states to offer citizens a searchable, statewide sex offender registry that interacts with all other states to provide seamless registration and notification across the country.

The Sex Offender Notification and Registration Act will strengthen and unite cities, communities and states in the effort to stop the assault on American children. This bill has a companion bill in the House, sponsored by Congressman MARK FOLEY and Congressman BUD CRAMER. I invite you to join Senator BIDEN and me as we close the gaping holes that keep our children at risk.

By Mr. ALEXANDER (for himself and Mr. SCHUMER):

S. 1087. A bill to amend section 337 of the Immigration and Nationality Act to prescribe the oath or affirmation of renunciation and allegiance required to be naturalized as a citizen of the United States; to the Committee on the Judiciary.

Mr. ALEXANDER. Today I am introducing legislation to address an important statement on what it means to be a citizen of the United States: the Oath of Allegiance, to which all new citizens swear in court when they are naturalized.

In the last session of Congress, I introduced legislation to enshrine the Oath of Allegiance in law. I was joined in that effort by 34 colleagues, including the Senator from New York, Mr.

SCHUMER, as the lead cosponsor. That legislation was introduced, in part, in response to reports that the Bureau of Citizenship and Immigration Services, or BCIS, an agency of the Department of Homeland Security, may have been planning to change the Oath of Allegiance that immigrants take to become a citizen of this nation. Other Senators and I felt the proposed language, as reported in the press, would have weakened the Oath.

Today, I introduce a bill that puts forward a compromise that I hope everyone can support. I am again grateful to be joined in this effort by the senior Senator from New York. This bill introduces a modified Oath of Allegiance that is just as strong as the current one, but that uses more modem language.

I was surprise to learn that Congress has never voted on the content of this Oath. We have left it to Federal regulators. That's not how we treat other symbols of our Nation or other statements on what it means to be an American.

For example, the American Flag, with its 50 stars—one for each State—and 13 stripes for the original colonies, cannot be altered by Federal regulation. The only way a star gets added is when Congress acts to admit a new state. And we've never changed the 13 stripes since the flag was first adopted in 1777.

The Pledge of Alliance, which we repeat each morning in the United States Senate, can't be altered by Federal regulation. The Pledge is a statement of some of the values of the American Creed: ''one nation, under God, indivisible, with liberty and justice for all.'' What if a Federal agency decided we should take out justice, just saying ''with liberty for all''? It can't happen: because the Pledge can only be altered by Act of Congress, as it last was in 1954 when the phrase ''under God'' was added.

The National Motto ''In God We Trust,'' which appears on all our coins and dollar bills, can't be altered by Federal regulation. It is a fundamental statement of the religious character of the American people—even though we don't permit and don't want the establishment of state religion. The Treasury Department can't decide to leave the motto off the next dollar bill it prints because the motto was adopted by Congress—at first in 1864 to be printed on the 2-cent piece, an later as the official National Motto in 1956.

Our National Anthem, the Star Spangled Banner, can't be changed by Federal regulation. It, too, is a statement of our values, declaring our country ''the land of the free and the home of the brave.'' If a government agency decided it preferred America the Beautiful, or the Battle Hymn of the Republic, or God Bless America, all of which are great songs, the agency would have to ask Congress to act. Why? Because the Star Spangled Banner was named our National Anthem by law in 1931.

Likewise, the Oath of Allegiance should not be altered lightly—by a government agency, without public comment, and without approval from Congress. Of the five symbols and statements I've described—the Flag, the Anthem, the Pledge, the Motto, and the Oath, only the Oath of Allegiance is legally binding on those who take it. New citizens must take it, and they must sign it.

On September 11, 2003, when I spoke about my legislation, I said:

> To be clear, I have no objection to others proposing modifications to the Oath of Allegiance that we use today. . . . perhaps ways can be found to make it even stronger.
>
> Still, let's make sure any changes have the support of the people as represented by Congress. The Oath of Allegiance is a statement of the commitments required of new citizens. Current citizens, through their elected representatives, ought to have a say as to what those commitments are. That's a lesson in democracy. A legally binding statement on American citizenship ought to reflect American values, including democracy.

It is in that spirit that I offer this compromise language that prescribes an updated but very strong Oath of Allegiance. This is the right way to go forward in considering any changes, and, I hope, will allow us to finally enshrine this statement of what it means to be an American in law.

By Mr. KYL:

S. 1088. A bill to establish streamlined procedures for collateral review of mixed petitions, amendments, and defaulted claims, and for other purposes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today to introduce the Streamlined Procedures Act. This legislation will reduce delays in federal courts' review of habeas corpus petitions filed by State prisoners.

Currently, many Federal habeas corpus cases require 10, 15, or even 20 years to complete. These delays burden the courts and deny justice to defendants with meritorious claims. They also are deeply unfair to victims of serious, violent crimes. A parent whose child has been murdered, or someone who has been the victim of a violent assault, cannot be expected to ''move on'' without knowing how the case against the attacker has been resolved. Endless litigation, and the uncertainty that it brings, is unnecessarily cruel to these victims and their families. As President Clinton noted of the 1996 habeas-corpus reforms, ''it should not take eight or nine years and three trips to the Supreme Court to finalize whether a person in fact was properly convicted or not.'' For the sake of all parties, we should minimize these delays.

The 1996 habeas corpus reforms were supposed to prevent delays in Federal collateral review. Unfortunately, as the Justice Department noted in testimony before the House Crime Subcommittee in March 2003, there still are ''significant gaps [in the habeas corpus statutes] . . . which can result in highly protracted litigation, and some of the reforms that Congress did adopt in 1996 have been substantially undermined in judicial application.''

The Streamlined Procedures Act is designed to fill some of these gaps. First, the SPA imposes reasonable but firm time limits on court of appeals' review of Federal habeas petitions. It requires a court of appeals to decide a habeas appeal within 300 days of the completion of briefing, to rule on a petition for rehearing within 90 days, and to decide a case on rehearing within 120 days before the same panel, or 180 days before an en banc court.

As generous as these time limits are, they would make a real difference in some cases. In Morales v. Woodford, 336 F.3d 1136, 9th Cir. 2003, for example, the Ninth Circuit took 3 years to decide the case after briefing was completed. And after issuing its decision, the court took another 16 months to reject a petition for rehearing. Similarly, in Williams v. Woodford, 306 F.3d 665, 9th Cir. 2002, the court waited 25 months to decide the case—and then waited another 27 months to reject a petition for rehearing, for a total delay of almost 4½ years after appellate briefing had been completed. This is too long for either defendants or victims to have to wait.

The SPA also bars courts of appeals from rehearing successive-petition applications on their own motion—current law bars petitions for rehearing or certiorari for such applications, but some courts have interpreted this restriction to not preclude rehearing by the court of appeals sua sponte. The SPA also bars Federal courts from tolling the current 1-year deadline on filing habeas claims for reasons other than those authorized by the statute, and clarifies when a State appeal is pending for purposes of tolling the deadline.

In addition, the SPA creates uniform, clear procedures for review of procedurally improper claims. Current judicial caselaw creates a series of different standards for addressing claims in a Federal petition that were not exhausted in state court, that were presented in a late amendment, or that were procedurally defaulted. The SPA sets a uniform standard, allowing procedurally improper claims to go forward only if they present meaningful evidence that the defendant did not commit the crime, with all other improper claims barred.

The SPA also expands and improves the special expedited habeas procedures authorized in chapter 154 of the United States Code. These procedures are available to States that establish a system for providing high-quality legal representation to capital defendants. Chapter 154 sets strict time limits on Federal court action and places limits on claims. Currently, however, the court that decides whether a State is eligible for chapter 154 is the same court that would be subject to its time limits. Unsurprisingly, these courts

have proven resistant to chapter 154. The SPA would place the eligibility decision in the hands of a neutral party—the U.S. Attorney General, with review of his decision in the DC Circuit, which does not hear habeas appeals. The SPA also makes chapter 154's deadlines more practical by limiting the claims that can be raised under its provisions to those presenting meaningful evidence that the defendant did not commit the crime, and by extending the time for a district court to review and rule on a chapter 154 petition from 6 months to 15 months.

The SPA also eliminates duplicative Federal review of minor sentencing errors that already have been judged by State courts to be harmless or not prejudicial. It limits Federal courts to asking only whether the type of sentencing error at issue is one that could not have been harmless.

The SPA also applies the deferential review standard enacted in the 1996 reforms to all pending cases. Remarkably, some current habeas petitions still are not governed by the 1996 reforms. The SPA corrects this oversight, ending the need to apply the pre-1996 legal regime to any cases that still are being litigated today.

And finally, the SPA limits judicial review of State clemency and pardon decisions, guaranteeing that a State won't be sued for formalizing and regularizing its pardon procedures; it limits defendants' ability to ask Federal courts for investigatory funds without allowing prosecutors to be present and rebut defense allegations; and it guarantees a crime victim's right to be notified of, to be present at, and to speak at a criminal defendant's Federal habeas hearing.

To many people, the issues addressed by the SPA—petitions for rehearing, State remedies exhaustion, procedural default, chapter 154, AEDPA deference—may seem abstract and remote. For surviving crime victims, however, these matters can be very concrete.

A case recently in the news illustrates the importance of these concerns: that of the man who murdered three member of the Ryen family and Christopher Hughes in Chino Hills, California in June 1983. The killer in that case was an escaped convict from a nearby prison. He has since admitted that he spent 2 days hiding in a vacant house next to the home of the Ryen family. After several unsuccessful telephone calls to friends asking them to give him a ride, the killer took a hatchet and buck knife from the vacant house and set out to find a vehicle. The California Supreme Court describes the rest of what occurred, 53 Cal.3d 771, 794–95:

On Saturday, June 4, 1983, the Ryens and Chris Hughes attended a barbecue in Los Serranos, a few miles from the Ryen home in Chino. Chris had received permission to spend the night with the Ryens. Between 9 and 9:30 p.m., they left to drive to the Ryen home. Except for Josh [the Ryen's 8-year-old son], they were never seen alive again.

The next morning, June 5, Chris's mother, Mary Hughes, became concerned when he did not come home. A number of telephone calls to the Ryen residence received only busy signals. [Mary's husband] William went to the Ryen home to investigate.

William observed the Ryen truck at the home, but not the family station wagon. Although the Ryens normally did not lock the house when they were home, it was locked on this occasion. William walked around the house trying to look inside. When he reached the sliding glass doors leading to the master bedroom, he could see inside. William saw the bodies of his son and Doug and Peggy Ryen on the bedroom floor. Josh was lying between Peggy and Chris. Only Josh appeared alive.

William frantically tried to open the sliding door; in his emotional state, he pushed against the fixed portion of the doors, not the sliding door. He rushed to the kitchen door, kicked it in, and entered. As he approached the master bedroom, he found Jessica on the floor, also apparently dead. In the bedroom, William touched the body of his son. It was cold and stiff. William asked Josh who had done it. Josh appeared stunned; he tried to talk but could only make unintelligible sounds.

William tried to use a telephone in the house but it did not work. He drove to a neighbor's house seeking help. The police arrived shortly. Doug, Peggy, Chris, and Jessica were dead, the first three in the master bedroom, Jessica in the hallway leading to that bedroom. Josh was alive but in shock, suffering from an obvious neck wound. He was flown by helicopter to Loma Linda University Hospital.

The victims died from numerous chopping and stabbing injuries. Doug Ryen had at least 37 separate wounds, Peggy 32, Jessica 46, and Chris 25. The chopping wounds were inflicted by a sharp, heavy object such as a hatchet or axe, the stabbing wounds by a weapon such as a knife.

The escaped prisoner who committed this crime was caught 2 months later. Again, he admitted that he stayed in the house next door, but denied any involvement in the murders. According to the California Supreme Court, however, the evidence of defendant's guilt was ''overwhelming.'' Not only had the defendant stayed at the vacant house right next door at the time of the murders; the hatchet used in the murders was taken from the vacant house; shoe prints in the Ryen house matched those in the vacant house and were from a type of shoe issued to prisoners; bloody items, including a prison-issue button, were found in the vacant house; prison-issue tobacco was found in the Ryen station wagon, which was recovered in Long Beach; and defendant's blood type and hair matched that found in the Ryen house. Defendant was convicted of the murders and sentenced to death in 1985, and the California Supreme Court upheld the defendant's conviction and sentence in 1991.

The defendant's Federal habeas proceedings began shortly thereafter, and they continue to this day—22 years after the murders. In 2000, the defendant asked the courts for DNA testing of a blood spot in the Ryen house, a t-shirt near the crime scene, and the tobacco found in the car. Despite the overwhelming evidence of his guilt, the courts allowed more testing. All three tests found that the blood and saliva matched defendant, to a degree of certainty of one in 320 billion. Blood on the t-shirt matched both the defendant and one of the victims.

One might have thought that this would end the case. Not so. In February 2004, the en banc Ninth Circuit sua sponte authorized defendant to file a second habeas petition to pursue theories that police had planted this DNA evidence. Since the evidence had been in court custody since 1983, the Ninth Circuit's theory not only required police to plan and execute a vast conspiracy to plant the evidence—it also required them to foresee the future invention of the DNA technology that would make that evidence useful in future habeas proceedings.

The Streamlined Procedures Act would have made a difference in this case. For example, it would have eliminated the need to return to state court to exhaust new claims, reducing the delay in the Federal proceedings by nearly 3 years. It would have applied the 1996 reforms to this case, allowing deferential review of state factual findings and legal analysis. It would have placed time limits on Federal appeals court decisionmaking and grants of rehearing. And it would have prevented the court of appeals from ordering rehearing of the defendant's successive-petition application on its own motion, thereby barring the current round of O.J. Simpson-style conspiracy-theory litigation. The SPA could have brought this case to closure a long time ago.

And this case deserves to be brought to closure. One cannot underestimate the grievous impact that crimes like these have on the families of the victims. Mary Hughes, the mother of 11-year-old Christopher Hughes, who was sleeping over at the Ryen house on the night of the murders, has spoken movingly of the loss of her son:

Christopher Hughes loved his bicycle, swimming and showing off for his mom and dad.

The 11-year-old's bedroom was filled with swimming trophies and Star Wars collectibles. He was a handsome kid who was chased by a lot of fifth-grade girls on the playground during recess at Our Lady of the Assumption in Claremont.

He wasn't short on friends, either.

Christopher really liked Joshua Ryen, an 8-year-old boy who lived up the street from him. They would trick-or-treat together on Halloween, play together, and their parents were good friends.

On the night of June 4 1983, Christopher asked his parents if he could spend the night at the Ryen house.

It was a decision that would change the Hughes family forever.

[Mary Hughes'] son Christopher would have been 32 today. She sometimes wonders who he would have been, what he would've looked like, and even during her most solemn moments, she wonders what life would've been like if Cooper had never gone to the Ryens' house.

''It never really ever gets better,'' she said. ''Kevin Cooper robbed him of the chance to be a child, to attend his first dance, to have a girlfriend, and to one day get married and

have kids of his own. He robbed me of my child.''

Mary Ann Hughes does have one special memory of her son she holds close to her heart. A week before his death, she took him to see the movie ''Return of the Jedi.''

''He was so happy. It was such a great day,'' she said. ''It seems like such a small thing, but it's the best memory I have of both of us.'' (Sara Carter, ''He Was at the Beginning of His Life When He Died,'' Inland Valley Daily Bulletin, February 9, 2004.)

In light of how much the surviving family already has suffered, one might expect that all participants in the criminal proceedings would take great concern and care for the feelings of the family. Unfortunately, that has not been the case. The Ninth Circuit has proved willing to turn the appeals into a three-ring circus, allowing continual pursuit of the most frivolous conspiracy theories. The impact of these now 22 years of trial and appeals on the victims' families has been predictable: they feel that they and the victims have become irrelevant to the entire process. Shortly after the Ninth Circuit authorized an additional round of appeals in this case, a local newspaper described what the families have experienced:

For nearly 20 years, since convicted murderer Kevin Cooper was sentenced to death for the 1983 slayings of a Chino Hills family and their young houseguest, families of the victims have waited silently for the day the hand of justice would grant them peace.

For those families, the last two decades have seemed like an eternity.

''I lived through a nightmare,'' said Herbert Ryen, whose brother Douglas Ryen was among those killed, along with Douglas' wife Peggy, their 11-year-old daughter Jessica, and her 10-year-old friend Christopher Hughes.

[O]n the morning of Feb. 9, [2004,] the day of Cooper's scheduled death by lethal injection, word came down that the 9th U.S. Circuit Court of Appeals had decided to block the execution.

[T]o the Ryen and Hughes families, the stay just hours before Cooper's scheduled execution at San Quentin State Prison was nearly incomprehensible. The indefinite delay has left them in a sort of emotional limbo, questioning whether the legal system had abandoned them.

''The bottom line is that this whole issue is not about Kevin Cooper . . . it is about the death penalty,'' said Mary Ann Hughes, the mother of Christoper Hughes. ''We're so mad—mad because we feel as though the courts turned their back on my son.''

''They (Court of Appeals) are holding us hostage,'' Hughes said.

For Herbert Ryen and his wife Sue, waiting for justice has taken an equally destructive toll on their lives. The torment their family experienced following the murders, and the subsequent years lost to depression, could never be replaced, he said from his home in Arizona.

Mary Ann Hughes said the pain her family suffers is only amplified by the seemingly continuous bombardment of celebrities campaigning against Cooper's execution. She wonders who will cry out in anger for the victims.

One former television star and anti-death penalty activist, Mike Farrell of the popular series MASH, spoke of the case on a recent news program.

''He claimed that we must feel relieved since the stay of execution was granted,'' Hughes said. ''How can (Farrell) have the audacity to say he knows what we are feeling?''

Farrell could not be reached for comment.

Since Christopher's death, the Hughes family has chosen to remain out of the media spotlight. And until recently, their efforts were successful, due largely to the support of their surviving children, family members and a strong network of close friends, Hughes said.

The court's decision Feb. 9 has re-opened the case, forcing the families to re-live the nightmare they have fought so hard to leave behind, they say.

Mary Ann Hughes is left wondering about other families who have had loved ones taken from them, about the legal battles they have had to endure in their own quests for justice.

She thinks of the parents of Samantha Runion, the 5-year-old Orange County girl who was murdered in 2003, and of what her family could face in the next 20 years.

For Bill Hughes, the anguish is intensified—he will forever know the pain of walking into the Ryens' home the morning after the murders, and finding his son, dead and covered in blood near the Ryens' bedroom door. He was also the first to discover Joshua Ryen, also drenched in blood, clinging to life.

''It is a memory he will always have to live with,'' Mary Ann Hughes said.

Indeed, time has been no friend to the victims' families, as California's recent appellate court ruling has further denied them closure, she added.

''What this decision has done to our legal system in California is unthinkable,'' she said. ''Somewhere along the line, the courts have got to uphold the law, and we will wait it out until they do.'' (Sara Carter, ''Families of Murder Victims Wait for Justice in Cooper Case,'' Inland Valley Daily Bulletin, February 24, 2004.)

Mary Hughes' story demonstrates why the use of Federal judicial power must be measured and fair it illustrates the heavy cost imposed by judicial excess.

No statement, however, better explains the gross cruelty caused by allowing endless litigation and appeals in a case like this than that given by one of the surviving victims of the 1983 attack. Josh Ryen was 8 years old when he was stabbed in his parents' bedroom and his parents and sister were murdered. He is now 30 years old. On April 22, 2005, he gave a statement pursuant to the recently enacted Crime Victims' Rights Act in the federal habeas corpus hearing for his parents and sister's killer. I will close my remarks by asking unanimous consent that Josh Ryen's statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF JOSHUA RYEN, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SAN DIEGO

APRIL 22, 2005.—The first time I met Kevin Cooper I was 8 years old and he slit my throat. He hit me with a hatchet and put a hole in my skull. He stabbed me twice, which broke my ribs and collapsed one lung. I lived only because I stuck four fingers in my neck to slow the bleeding, but I was too weak to move. I laid there 11 hours looking at my mother who was right beside me.

I know now he came through the sliding glass door and attacked my dad first. He was lying on the bed and was struck in the dark without warning with the hatchet and knife. He was hit many times because there is a lot of blood on the wall on his side of the bed.

My mother screamed and Cooper came around the bed and started hitting her. Somehow my dad was able to struggle between the bed and the closet but Cooper bludgeoned my father to death with the knife and hatchet, stabbing him 26 times and axing him 11. One of the blows severed his finger and it landed in the closet. My mother tried to get away but he caught her at the bottom of the bed and he stabbed her 25 times and axed her 7.

All of us kids were drawn to the room by mom's screams. Jessica was killed in the doorway with 5 ax blows and 46 stabs. I won't say how many times my best friend Chris was stabbed and axed, not because it isn't important, but because I don't want to hurt his family in any way, and they are here.

After Cooper killed everyone, and thought he had killed me, he went over to my sister and lifted her shirt and drew things on her stomach with the knife. Then he walked down the hallway, opened the refrigerator, and had a beer. I guess killing so many people can make a man thirsty.

I don't want to be here. I came because I owe it to my family, who can't speak for themselves. But by coming I am acknowledging and validating the existence of Kevin Cooper, who should have been blotted from the face of the earth a long time ago. By coming here it shows that he still controls me. I will be free, my life will start, the day Kevin Cooper dies. I want to be rid of him, but he won't go away.

I've been trying to get away from him since I was 8 years and I can't escape. He haunts me and follows me. For over 20 years all I've heard is Kevin Cooper this and Kevin Cooper that. Kevin Cooper says he is innocent, Kevin Cooper says he was framed, Kevin Cooper says DNA will clear him, Kevin Cooper says blood was planted, Kevin Cooper says the tennis shoes aren't his, Kevin Cooper says three guys did it, Kevin Cooper says police planted evidence, Kevin Cooper gets another stay from another court and sends everyone off on another wild goose chase.

The courts say there isn't any harm when Kevin Cooper gets another stay and another hearing. This just shows they don't care about me, because every time he gets another delay I am harmed and have to relive the murders all over again. Every time Kevin Cooper opens his mouth everyone wants to know what I think, what I have to say, how I'm feeling, and the whole nightmare floods all over me again: the barbecue, me begging to let Chris spend the night, me in my bed and him on the floor beside me, my mother's screams, Chris gone, dark house, hallway, bushy hair, everything black, mom cut to pieces saturated in blood, the nauseating smell of blood, eleven hours unable to move, light filtering in, Chris' father at the window, the horror of his face, sound of the front door splintering, my pajamas being cut off, people trying to save me, the whap whap of the helicopter blades, shouted questions, everything fading to black.

Every time Cooper claims he's innocent and sends people scurrying off on another wild goose chase, I have to relive the murders all over again. It runs like a horror movie, over and over again and never stops because he never shuts up. He puts PR people on national television who say outrageous things and then the press wants to know what I think. What I think is that I would like to be rid of Kevin Cooper. I would like for him to go away. I would like to never hear from Kevin Cooper again. I would like Kevin Cooper to pay for what he did.

I dread happy times like Christmas and Thanksgiving. If I go to a friend's house on

holidays I look at all the mothers and fathers and children and grandchildren and get sad because I have no one. Kevin Cooper took them from me.

I get terrified when I go into any place dark, like a house before the lights are on. I hear screams and see flashbacks and shadows. Even with lights on I see terrible things. After I was stabbed and axed I was too weak to move and stared at my mother all night. I smelled this overpowering smell of fresh blood and knew everyone had been slaughtered.

Every day when I comb my hair I feel the hole where he buried the hatchet in my head, and when I look in the mirror I see the scar where he cut my throat from ear to ear and I put four fingers in it to stop the bleeding which, they say, saved my life. Every year I lose hearing in my left ear where he buried the knife.

Helicopters give me flashbacks of life flight and my Incredible Hulks being cut off by paramedics. Bushy hair reminds me of the killer. Silence reminds me of the quiet before the screams. Cooper is everywhere. There is no escape from him.

I feel very guilty and responsible to the Hughes family because I begged them to let Chris spend the night. If I hadn't done that he wouldn't have died. I apologize to them and especially to Mr. Hughes for having to find us and see his son cut and stabbed to death.

I thank the judge who gave my grandma custody of me because she took good care of me and loves me very much.

I'm grateful to the ocean for giving me peace because when I go there I know my mother and father and sister's ashes are sprinkled there.

Kevin Cooper has movie stars and Jesse Jackson holding rallies for him, people carrying signs, lighting candles, saying prayers. To them and you I say:

I was 8 when he slit my throat,
It was dark and I couldn't see.
Through the night and day I laid there,
trying to get up and flee.
He killed my mother, father, sister, friend,
And started stalking me.
I try to run and flee from him but cannot get away,
While he demands petitions and claims, some fresh absurdity.
Justice has no ear for me nor cares about my plight,
while crowds pray for the killer and light candles in the night.
To those who long for justice and love truth which sets men free, When you pray
your prayers tonight, please remember me.

By Mr. AKAKA (for himself, Mr. COCHRAN, and Mr. DODD):

S. 1089. A bill to establish the National Foreign Language Coordination Council to develop and implement a foreign language strategy, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. AKAKA. Mr. President, today I rise to introduce the National Language Coordination Act of 2005 which provides a framework for leading and coordination the learning of foreign languages and cultures, with my good friends Senators COCHRAN and DODD.

The National Foreign Language Coordination Act would create the position of a National Language Director and a National Foreign Language Coordination Council to develop and oversee the implementation of a foreign language strategy. The proposed Council, chaired by the National Language Director, would identify crucial priorities, increase public awareness of the need for foreign language skills, advocate maximum use of resources, coordinate cross-sector efforts, and monitor the foreign language activities of the Federal Government.

The genesis of this legislation is a report entitled, ''A Call to Action for National Foreign Language Capabilities,'' issued by the National Language Conference held in June 2004 under the auspices of the Department of Defense. This conference was an extraordinary gathering of government, industry, academia, and language association representatives. The mission of this meeting was twofold: to discuss and deliberate initial strategic approaches to meeting the nation's language needs in the 21st century, and to identify actions that could move the United States toward a ''language-competent nation.'' It was hosted by the Office of the Under Secretary of Defense for Personnel and Readiness and by the Center for Advanced Study of Language (CASL) at the University of Maryland at College Park.

I ask unanimous consent that the executive summary of the report, ''A Call to Action for National Foreign Language Capabilities,'' be printed in the RECORD following my remarks.

I believe the recommendations of this report speak eloquently to the need for this legislation. As Dr. David Chu, Undersecretary of Defense for Personnel and Readiness, notes in his forward to the report, ''improving the nation's foreign language capability requires immediate and long-term engagement.''

The intent of this legislation is to ensure that immediate and long-term engagement.

The establishment of a National Language Director and the creation of a National Foreign Language Coordination Council will ensure that the key recommendations of the Department of Defense sponsored conference will be implemented, which include: developing policies and programs that build the nation's language and cultural understanding capability; engaging federal, state, and local agencies and the private sector in solutions; developing language and cultural competency across public and private sectors; developing language skills in a wide range of critical languages; strengthening our education system, programs, and tools in foreign languages and cultures; and integrating language training into career fields and increase the number of language professionals.

The terrorist attacks of September 11, 2001, showed how much more was needed to improve education in these critical areas. The investigations surrounding the attacks have underscored how important foreign language proficiency is to our national security. The Joint Intelligence Committee inquiry into the terrorist attacks found that prior to September 11, the Intelligence Community was not prepared to handle the challenge of translating the volumes of foreign language counter-terrorism intelligence that had been collected. Agencies within the Intelligence Community experienced backlogs in material awaiting translation and a shortage of language specialists and language-qualified field officers in the most critical terrorism-related languages used by terrorists.

America needs people who understand foreign cultures and who are fluent in locally-spoken languages. The stability and economic vitality of the United States and our national security depend on American citizens who are knowledgeable about the world. We need civil servants, including law enforcement officers, teachers, area experts, diplomats, and business people with the ability to communicate at an advanced level in the languages and understand the cultures of the people with whom they interact.

Experts tell us we should develop long-term relationships with people from every walk of life all across the world, whether or not the languages they speak are considered critical for a particular issue or emergency.

They are right.

As then-Deputy Secretary of Defense Paul Wolfowitz noted at the National Language Conference, ''The greater our ability to communicate with people, the easier the burden on our troops and the greater the likelihood that we can complete our missions and bring our people home safely. Even better, the greater our linguistic skill, the greater the possibility that we can resolve international differences and achieve our objectives without having to use force.''

I am proud of my own State of Hawaii, whose language patterns reflect that we are a mixing pot of varying cultures. According to the 2000 Census, more than 300,000 people or about 27 percent of those five years and older spoke a language other than English at home. This is compared to about 18 percent nationwide. Language education offerings to improve conversational proficiency with formal training in non-English languages are working to keep pace with increased demand. In addition, enrollments in foreign language courses at the University of Hawaii have been markedly increasing—a trend that I am gratified to see happening across the country. But more needs to be done both in Hawaii and the rest of the country.

I am a passionate believer in beginning these programs at the earliest age possible. Americans need to be open to the world; we need to be able to see the world through the eyes of others if we are going to understand how to resolve the complex problems we face.

The need to hear and understand one another is timeless and essential.

An ongoing commitment to developing language and cultural expertise

helps prevent a crisis from occurring and provides diplomatic and language resources when needed. We cannot afford to seek out foreign language skills after an event like 9/11 occurs. The failures of communication and understanding have already done their damage. We must provide an ongoing commitment to language education and encourage knowledge of foreign languages and cultures.

The answer is simple. If we are committed to maintaining these relationships and creating a language proficient citizenry, we must have leadership. The National Foreign Language Coordination Act will provide this leadership and ensure that we are aware and involved in the world around us.

I ask unanimous consent that the text of the bill be printed in the RECORD.

I urge my colleagues to support this important legislation.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY—A CALL TO ACTION AND LEADERSHIP

Vision: Our vision is a world in which the United States is a stronger global leader through proficiency in foreign languages and understanding of the cultures of the world. These abilities are strengths of our public and private sectors and pillars of our educational system. The government, academic, and private sectors contribute to, and mutually benefit from, these national capabilities.

The terrorist attacks of September 11th, the Global War on Terrorism, and the continued threat to our Homeland have defined the critical need to take action to improve the foreign language and cultural capabilities of the Nation. We must act now to improve the gathering and analysis of information, advance international diplomacy, and support military operations. We must act to retain our global market leadership and succeed against increasingly sophisticated competitors whose workforces possess potent combinations of professional skills, knowledge of other cultures, and multiple language proficiencies. Our domestic well-being demands action to provide opportunities for all students to learn foreign languages important for the Nation, develop the capabilities of our heritage communities, and ensure services that are core to our quality of life.

Success in this crucial undertaking will depend on leadership strong enough to:

Implement policies, programs, and legislation that build the national language and cultural understanding capability;

Engage Federal, state, and local agencies and the private sector in solutions;

Develop language and cultural competency across public and private sectors;

Develop language skills in a wide range of critical languages;

Strengthen our education system, programs, and tools in foreign languages and cultures; and

Integrate language training into career fields and increase the number of language professionals, especially in the less commonly taught languages.

Leadership must be comprehensive, as no one sector—government, industry, or academia—has all of the needs for language and cultural competency, or all of the solutions. Some actions must be initiated immediately by specific agencies and Federal Departments should organize to work on proposed recommendations. Other necessary solutions must be long-term, strategic, and '' involve multiple organizations in all levels. To accomplish this agenda, the Nation needs:

A National Language Authority appointed by the President to develop and implement a national foreign language strategy;

A National Foreign Language Coordination Council to coordinate implementation of the national foreign language strategy.

This is the Call to Action to move the Nation toward a 21st century vision.

S. 1089

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 ''National Foreign Language Coordination Act of 2005''.

SEC. 2. FINDINGS.

Congress finds that—

(1) there is a severe shortage of qualified language professionals, including teachers, translators, and interpreters, especially in less commonly taught languages, across the United States;

(2) Federal, State, and local governments need individuals with bilingual and bicultural capabilities, including—

(A) diplomats;

(B) defense and intelligence analysts;

(C) military personnel;

(D) foreign language instructors;

(E) health professionals;

(F) medical and social services providers;

(G) court interpreters;

(H) translators; and

(I) law enforcement officers;

(3) deficiencies in the national language capabilities have—

(A) undermined cross-cultural communication and understanding at home and abroad;

(B) restrained social mobility;

(C) lessened national commercial competitiveness;

(D) limited the effectiveness of public diplomacy;

(E) restricted justice and government services to sectors of society; and

(F) threatened national security;

(4) ample resources are not available to develop language and cultural capabilities in all of the world's languages, requiring prioritization of such resources; and

(5) a National Foreign Language Coordination Council and a National Language Director can help to raise public awareness and provide top-down coordination and direction.

SEC. 3. ESTABLISHMENT OF THE NATIONAL FOREIGN LANGUAGE COORDINATION COUNCIL.

(a) ESTABLISHMENT.—There is established the National Foreign Language Coordination Council (referred to as the ''Council'' in this Act), which shall be an independent establishment as defined under section 104 of title 5, United States Code.

(b) MEMBERSHIP.—The Council shall consist of the following members or their designees:

(1) The National Language Director, who shall serve as the chairperson of the Council.

(2) The Secretary of Education.

(3) The Secretary of Defense.

(4) The Secretary of State.

(5) The Secretary of Homeland Security.

(6) The Attorney General.

(7) The Director of National Intelligence.

(8) The Secretary of Labor.

(9) The Director of the Office of Personnel Management.

(10) The Director of the Office of Management and Budget.

(11) The Secretary of Commerce.

(12) The Secretary of Health and Human Services.

(13) The Secretary of the Treasury.

(14) The Secretary of Housing and Urban Development.

(15) The Secretary of Agriculture.

(16) The heads of such other Federal agencies as the Council considers appropriate.

(c) RESPONSIBILITIES.—

(1) IN GENERAL.—The Council shall be charged with—

(A) developing a national foreign language strategy within 18 months of the date of enactment of this Act; and

(B) overseeing the implementation of such strategy.

(2) STRATEGY CONTENT.—The strategy developed under paragraph (1) shall include—

(A) identification of crucial priorities across all sectors;

(B) identification and evaluation of Federal foreign language programs and activities, including—

(i) recommendations on coordination;

(ii) program enhancements; and

(iii) allocation of resources so as to maximize use of resources;

(C) needed national policies and corresponding legislative and regulatory actions in support of, and allocation of designated resources to, promising programs and initiatives at all levels (Federal, State, and local), especially in the less commonly taught languages that are seen as critical for national security and global competitiveness in the next 20 to 50 years;

(D) effective ways to increase public awareness of the need for foreign language skills and career paths in all sectors that can employ those skills, with the objective of increasing support for foreign language study among—

(i) Federal, State, and local leaders;

(ii) students;

(iii) parents;

(iv) elementary, secondary, and postsecondary educational institutions; and

(v) potential employers;

(E) incentives for related educational programs, including foreign language teacher training;

(F) coordination of cross-sector efforts, including public-private partnerships;

(G) coordination initiatives to develop a strategic posture for language research and recommendations for funding for applied foreign language research into issues of national concern;

(H) assistance for—

(i) the development of foreign language achievement standards; and

(ii) corresponding assessments for the elementary, secondary, and postsecondary education levels, including the National Assessment of Educational Progress in foreign languages;

(I) development of—

(i) language skill-level certification standards;

(ii) an ideal course of pre-service and professional development study for those who teach foreign language;

(iii) suggested graduation criteria for foreign language studies and appropriate non-language studies, such as—

(I) international business;

(II) national security;

(III) public administration; and

(IV) health care; and

(J) identification of and means for replicating best practices at all levels and in all sectors, including best practices from the international community.

(d) MEETINGS.—The Council may hold such meetings, and sit and act at such times and places, as the Council considers appropriate, but shall meet in formal session at least 2 times a year. State and local government agencies and other organizations (such as

academic sector institutions, foreign language-related interest groups, business associations, industry, and heritage community organizations) shall be invited, as appropriate, to public meetings of the Council at least once a year.

(e) STAFF.—

(1) IN GENERAL.—The Director may appoint and fix the compensation of such additional personnel as the Director considers necessary to carry out the duties of the Council.

(2) DETAILS FROM OTHER AGENCIES.—Upon request of the Council, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council.

(3) EXPERTS AND CONSULTANTS.—With the approval of the Council, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(f) POWERS.—

(1) DELEGATION.—Any member or employee of the Council may, if authorized by the Council, take any action that the Council is authorized to take in this Act.

(2) INFORMATION.—The Council may secure directly from any Federal agency such information the Council considers necessary to carry out its responsibilities. Upon request of the Director, the head of such agency shall furnish such information to the Council.

(3) DONATIONS.—The Council may accept, use, and dispose of gifts or donations of services or property.

(4) MAIL.—The Council may use the United States mail in the same manner and under the same conditions as other Federal agencies.

(g) CONFERENCES, NEWSLETTER, AND WEBSITE.—In carrying out this Act, the Council—

(1) may arrange Federal, regional, State, and local conferences for the purpose of developing and coordinating effective programs and activities to improve foreign language education;

(2) may publish a newsletter concerning Federal, State, and local programs that are effectively meeting the foreign language needs of the nation; and

(3) shall create and maintain a website containing information on the Council and its activities, best practices on language education, and other relevant information.

(h) REPORTS.—Not later than 90 days after the date of enactment of this Act, and annually thereafter, the Council shall prepare and transmit to the President and Congress a report that describes the activities of the Council and the efforts of the Council to improve foreign language education and training and impediments, including any statutory and regulatory restrictions, to the use of each such program.

SEC. 4. ESTABLISHMENT OF A NATIONAL LANGUAGE DIRECTOR.

(a) IN GENERAL.—There is established a National Language Director who shall be appointed by the President. The National Language Director shall be a nationally recognized individual with credentials and abilities across all of the sectors to be involved with creating and implementing long-term solutions to achieving national foreign language and cultural competency.

(b) RESPONSIBILITIES.—The National Language Director shall—

(1) develop and oversee the implementation of a national foreign language strategy across all sectors;

(2) establish formal relationships among the major stakeholders in meeting the needs of the Nation for improved capabilities in foreign languages and cultural understanding, including Federal, State, and local government agencies, academia, industry, labor, and heritage communities; and

(3) coordinate and lead a public information campaign that raises awareness of public and private sector careers requiring foreign language skills and cultural understanding, with the objective of increasing interest in and support for the study of foreign languages among national leaders, the business community, local officials, parents, and individuals.

(c) COMPENSATION.—The National Language Director shall be paid at a rate of pay payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 5. ENCOURAGEMENT OF STATE INVOLVEMENT.

(a) STATE CONTACT PERSONS.—The Council shall consult with each State to provide for the designation by each State of an individual to serve as a State contact person for the purpose of receiving and disseminating information and communications received from the Council.

(b) STATE INTERAGENCY COUNCILS AND LEAD AGENCIES.—Each State is encouraged to establish a State interagency council on foreign language coordination or designate a lead agency for the State for the purpose of assuming primary responsibility for coordinating and interacting with the Council and State and local government agencies as necessary.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 149—HONORING THE LIFE AND CONTRIBUTIONS OF HIS EMINENCE, ARCHBISHOP IAKOVOS, FORMER ARCHBISHOP OF THE GREEK ORTHODOX ARCHDIOCESE OF NORTH AND SOUTH AMERICA

Ms. SNOWE (for herself and Mr. SARBANES) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 149

Whereas His Eminence, Archbishop Iakovos, former archbishop of the Greek Orthodox Archdiocese of North and South America and spiritual leader of Greek Orthodox Christians in the Western Hemisphere from 1959 to 1996, passed away at the age of 93 on April 10, 2005, in Stamford, Connecticut;

Whereas, when Archbishop Iakovos retired at the age of 85 on July 29, 1996, the Archbishop had given 37 years of outstanding service that were distinguished by his leadership in furthering religious unity, revitalizing Christian worship, and championing human and civil rights;

Whereas Archbishop Iakovos was born Demetrios A. Coucouzis on the tiny island of Imbros in the Aegean Sea to Maria and Athanasios Coucouzis on July 29, 1911;

Whereas Archbishop Iakovos enrolled in the Ecumenical Patriarchal Theological School at Halki at the age of 15;

Whereas, after graduating with high honors from Halki, Archbishop Iakovos was ordained deacon in 1934, taking the ecclesiastical name Iakovos;

Whereas 5 years after his ordination, Archbishop Iakovos received an invitation to serve as archdeacon to the late Archbishop Athenagoras, the primate of North and South America, who later became Ecumenical Patriarch of Constantinople;

Whereas in 1940, Archbishop Iakovos was ordained to the priesthood in Lowell, Massachusetts, beginning his service at St. George Church in Hartford, Connecticut, while teaching and serving as assistant dean of the Holy Cross Greek Orthodox Theological School, then in Pomfret, Connecticut, and now in Brookline, Massachusetts;

Whereas in 1941, Archbishop Iakovos was named preacher at Holy Trinity Cathedral in New York City, and in the summer of 1942 served as temporary dean of St. Nicholas Church in St. Louis, Missouri;

Whereas Archbishop Iakovos was appointed dean of the Annunciation Greek Orthodox Cathedral in Boston, Massachusetts, in 1942, and remained there until 1954;

Whereas in 1945, Archbishop Iakovos earned a Master of Sacred Theology Degree from Harvard University;

Whereas Archbishop Iakovos became a United States citizen in 1950;

Whereas in 1954, Archbishop Iakovos was ordained Bishop of Melita by his spiritual father and mentor, Ecumenical Patriarch Athenagoras, for whom he served four years as personal representative of the Patriarchate to the World Council of Churches in Geneva;

Whereas on February 14, 1959, the Holy Synod of the Ecumenical Patriarchate elected Archbishop Iakovos to succeed Archbishop Michael as primate of the Greek Orthodox Church in the Americas;

Whereas Archbishop Iakovos was enthroned April 1, 1959, at Holy Trinity Cathedral in New York City, assuming responsibility for a jurisdiction that has grown to be over 500 parishes in the United States alone;

Whereas the enthronement of Archbishop Iakovos in 1959 ushered in a new era for the Greek Orthodox Church in America, in which the Church became part of the mainstream of American religious life;

Whereas in 1959, shortly after being named archbishop, Archbishop Iakovos held a historic meeting with Pope John XXIII, becoming the first Greek Orthodox Archbishop to meet with a Roman Catholic Pope in 350 years;

Whereas Archbishop Iakovos was a dynamic participant in the contemporary ecumenical movement for Christian unity, serving for nine years as President of the World Council of Churches and piloting Inter-Orthodox, Inter-Christian, and Inter-Religious dialogues;

Whereas Archbishop Iakovos vigorously supported the passage of the Civil Rights Act of 1964, and had the courage to walk hand in hand with Dr. Martin Luther King, Jr. in Selma, Alabama, a historic moment for America that was captured on the cover of LIFE Magazine on March 26, 1965;

Whereas Archbishop Iakovos spoke out forcefully against violations of human rights and religious freedom and, in 1974, undertook a massive campaign to assist Greek Cypriot refugees following the invasion of Cyprus by Turkish armed forces;

Whereas Archbishop Iakovos was a recipient of the Presidential Medal of Freedom, the Nation's highest civilian honor, which was bestowed on him by President Carter on June 9, 1980;

Whereas in 1986, Archbishop Iakovos was awarded the Ellis Island Medal of Honor and was cited by the Academy of Athens, the National Conference of Christians and Jews, and the Appeal of Conscience;

Whereas Archbishop Iakovos, during his stewardship of the Greek Orthodox Church in America, became an imposing religious figure and a champion of social causes, encouraging the faithful to become involved in all aspects of American life;

Whereas Archbishop Iakovos was a friend to nine Presidents, and to religious and political leaders worldwide, receiving honorary

degrees from some 40 colleges and universities;

Whereas Archbishop Iakovos presented a prayer at Presidential inaugural ceremonies in 1961, 1965, 1969, and 1972;

Whereas the Archbishop has said of his pastoral work with immigrants in New England and New York, ''I lived and struggled with them to maintain the faith and culture.'';

Whereas in a 1995 interview, the Archbishop said he had accomplished a major goal ''to have the Orthodox Church be accepted by the family of religions in the United States''; and

Whereas Archbishop Iakovos was interred at the Holy Trinity Cathedral in New York, New York, on April 15, 2005: Now, therefore, be it

Resolved, That the Senate—

(1) mourns the loss of Archbishop Iakovos and commends the life the Archbishop led;

(2) thanks Archbishop Iakovos for his service to the members of his church and to the people of this Nation;

(3) honors Archbishop Iakovos' commitment to the principles of equality, humanity, and peace; and

(4) recognizes that Archbishop Iakovos was a committed and caring pastor to a whole generation of Greek Americans—

(A) whose hard work, determination, and pride in their religious and cultural heritage Archbishop Iakovos embodied; and

(B) who will dearly miss the Archbishop.

SENATE RESOLUTION 150—EXPRESSING CONTINUED SUPPORT FOR THE CONSTRUCTION OF THE VICTIMS OF COMMUNISM MEMORIAL

Mr. DURBIN (for himself, Mr. SMITH, and Mr. MARTINEZ) submitted the following resolution; which was considered and agreed to:

S. RES. 150

Whereas section 905 of the FRIENDSHIP Act (40 U.S.C. 1003 note) authorizes the construction of a memorial to honor the victims of communism;

Whereas the construction of a Victims of Communism Memorial near the United States Capitol in the District of Columbia is scheduled to begin in the fall of 2005;

Whereas construction of the Memorial is supported by many Americans whose country of origin is, or was, a ''Captive Nation'', from Baltic-Americans to Vietnamese-Americans;

Whereas communism has claimed the lives of more than 100,000,000 people in less than 100 years; and

Whereas it is important for the people of the United States to honor and remember the victims of communism by supporting the construction of this memorial: Now, therefore, be it

Resolved, That the Senate expresses its continued support for the construction of the Victims of Communism Memorial.

SENATE RESOLUTION 151—RECOGNIZING THE 57TH ANNIVERSARY OF THE INDEPENDENCE OF THE STATE OF ISRAEL

Mr. FRIST (for himself, Mr. REID, Mr. MARTINEZ, Mr. LAUTENBERG, Mr. INHOFE, Mr. LIEBERMAN, and Mrs. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 151

Whereas in May 1948, the State of Israel was established as a sovereign and independent nation;

Whereas the United States was one of the first nations to recognize Israel, only 11 minutes after its creation;

Whereas Israel has provided the opportunity for Jews from all over the world to reestablish their ancient homeland;

Whereas Israel is home to many religious sites which are sacred to Judaism, Christianity, and Islam;

Whereas Israel provided a refuge to Jews who survived the horrors of the Holocaust and the evils committed by the Nazis which were unprecedented in human history;

Whereas the people of Israel have established a unique, pluralistic democracy which includes the freedoms cherished by the people of the United States, including freedom of speech, freedom of religion, freedom of association, freedom of the press, and government by the consent of the governed;

Whereas Israel continues to serve as a shining model of democratic values by regularly holding free and fair elections, promoting the free exchange of ideas, and vigorously exercising in its Parliament, the Knesset, a democratic government that is fully representative of its citizens;

Whereas Israel has bravely defended itself from attacks repeatedly since independence;

Whereas the Government of Israel has successfully worked with the neighboring Governments of Egypt and Jordan to establish peaceful, bilateral relations;

Whereas, despite the deaths of over one thousand innocent Israelis at the hands of murderous, suicide bombers and other terrorists during the past 4 years, the people of Israel continue to seek peace with their Palestinian neighbors;

Whereas the United States and Israel enjoy a strategic partnership based on shared mutual democratic values, friendship, and respect;

Whereas the people of the United States share affinity with the people of Israel and view Israel as a strong and trusted ally; and

Whereas Israel has made significant global contributions in the fields of science, medicine, and technology: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the independence of the State of Israel as a significant event in providing refuge and a national homeland for the Jewish people;

(2) strongly supports efforts to bring peace to the Middle East, including the disengagement plan of the Israeli government, the Roadmap, and the recent Quartet decision to appoint World Bank President James Wolfensohn as Coordinator for Gaza Disengagement.

(3) commends the bipartisan commitment of all United States administrations and United States Congresses since 1948 to stand by Israel and work for its security and well-being; and

(4) extends warm congratulations and best wishes to the people of Israel as they celebrate the 57th anniversary of Israel's independence.

SENATE CONCURRENT RESOLUTION 35—EXPRESSING THE SENSE OF CONGRESS THAT THE GOVERNMENT OF THE RUSSIAN FEDERATION SHOULD ISSUE A CLEAR AND UNAMBIGUOUS STATEMENT OF ADMISSION AND CONDEMNATION OF THE ILLEGAL OCCUPATION AND ANNEXATION BY THE SOVIET UNION FROM 1940 TO 1991 OF THE BALTIC COUNTRIES OF ESTONIA, LATVIA, AND LITHUANIA

Mr. SMITH (for himself, Mrs. FEINSTEIN, and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. CON. RES. 35

Whereas the incorporation in 1940 of the Baltic countries of Estonia, Latvia, and Lithuania into the Soviet Union was an act of aggression carried out against the will of sovereign people;

Whereas the United States was steadfast in its policy of not recognizing the illegal Soviet annexation of Estonia, Latvia, and Lithuania;

Whereas the Russian Federation is the successor state to the Soviet Union;

Whereas the Molotov-Ribbentrop Pact of 1939, including its secret protocols, between Nazi Germany and the Soviet Union provided the Soviet Union with the opportunity to occupy and annex Estonia, Latvia, and Lithuania;

Whereas the occupation brought countless suffering to the Baltic peoples through terror, killings, and deportations to Siberian concentration camps;

Whereas the peoples of Estonia, Latvia, and Lithuania bravely resisted Soviet aggression and occupation;

Whereas the Government of Germany renounced its participation in the Molotov-Ribbentrop Pact of 1939 and publicly apologized for the destruction and terror that Nazi Germany unleashed on the world;

Whereas, in 1989, the Congress of Peoples' Deputies of the Soviet Union denounced the Molotov-Ribbentrop Pact of 1939 and its secret protocols;

Whereas President Putin recently confirmed that the statement of the Congress of Peoples' Deputies remains the view of the Russian Federation;

Whereas the illegal occupation and annexation of the Baltic countries by the Soviet Union remains unacknowledged by the Russian Federation;

Whereas a declaration of acknowledgment of the illegal occupation and annexation by the Russian Federation would lead to improved relations between the people of Estonia, Latvia, and Lithuania and the people of Russia, would form the basis for improved relations between the governments of the countries, and strengthen stability in the region;

Whereas the Russian Federation is to be commended for beginning to acknowledge grievous and regrettable incidents in their history, such as admitting complicity in the massacre of Polish soldiers in the Katyn Forest in 1940;

Whereas the truth is a powerful weapon for healing, forgiving, and reconciliation, but its absence breeds distrust, fear, and hostility; and

Whereas countries that cannot clearly admit their historical mistakes and make peace with their pasts cannot successfully build their futures: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense

of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania, the consequence of which will be a significant increase in good will among the affected peoples and enhanced regional stability.

NOTICES OF HEARINGS/MEETINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. COLEMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations will hold a hearing entitled ''The Container Security Initiative and the Customs-Trade Partnership Against Terrorism: Securing the Global Supply Chain or Trojan Horse?'' In light of the September 11, 2001, terrorist attacks, concern has increased that terrorists could smuggle weapons of mass destruction in the approximately 9 million ocean going containers that arrive in the United States every year. As part of its overall response to the threat of terrorism, the Department of Homeland Security's Bureau of Customs and Border Protection (Customs) implemented the Container Security Initiative, CSI, to screen high-risk containers at sea ports overseas, thus employing screening tools before potentially dangerous cargoes reach our shores. Customs also implemented the Customs Trade Partnership Against Terrorism, C–TPAT, to improve the security of the global supply chain in partnership with the private sector.

Both CSI and C–TPAT face a number of compelling challenges that impact their ability to safeguard our Nation from terrorism. The Subcommittee's May 26 hearing will examine how Customs utilizes CSI and C–TPAT in connection with its other enforcement programs and review the requirements for and challenges involved in transitioning CSI and C–TPAT from promising risk management concepts to effective and sustained enforcement operations. These important Customs initiatives require sustained Congressional oversight. As such, this will be the first of several hearings the Subcommittee intends to hold on the response of the Federal Government to terrorist threats.

The Subcommittee hearing is scheduled for Thursday, May 26, 2005, at 9:30 a.m. in Room 562 of the Dirksen Senate Office Building. For further information, please contact Raymond V. Shepherd, III, Staff Director and Chief Counsel to the Permanent Subcommittee on Investigations, at 202–224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 19, 2005 at 9 a.m. to hold a briefing on Iran.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 19, 2005 at 10 a.m. to hold a hearing on Iran.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. I ask unanimous consent for Franklin Thompson Reece be granted floor privileges during debate on judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORZINE. Mr. President, I ask unanimous consent that Anne Milgram be granted floor privileges for the duration of the presentation.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFERRAL AND DISCHARGE—NOMINATION OF EDMUND S. HAWLEY

Mr. ALLEN. Mr. President, as in executive session, I ask unanimous consent that the nomination of Edmund S. Hawley, of California, to be Assistant Secretary of Homeland Security be referred to the Committee on Commerce, Science and Transportation, and that, further, upon the reporting out or discharge of the nomination, the nomination be referred to the Committee on Homeland Security and Governmental Affairs for a period not to exceed 30 days, after which time the nomination, if still in committee, will be discharged and placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSING THE SENSE OF CONGRESS RELATIVE TO THE GOVERNMENT OF THE RUSSIAN FEDERATION

Mr. ALLEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 35, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 35) expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation of the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ALLEN. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the concurrent resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 35) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. CON. RES. 35

Whereas the incorporation in 1940 of the Baltic countries of Estonia, Latvia, and Lithuania into the Soviet Union was an act of aggression carried out against the will of sovereign people;

Whereas the United States was steadfast in its policy of not recognizing the illegal Soviet annexation of Estonia, Latvia, and Lithuania;

Whereas the Russian Federation is the successor state to the Soviet Union;

Whereas the Molotov-Ribbentrop Pact of 1939, including its secret protocols, between Nazi Germany and the Soviet Union provided the Soviet Union with the opportunity to occupy and annex Estonia, Latvia, and Lithuania;

Whereas the occupation brought countless suffering to the Baltic peoples through terror, killings, and deportations to Siberian concentration camps;

Whereas the peoples of Estonia, Latvia, and Lithuania bravely resisted Soviet aggression and occupation;

Whereas the Government of Germany renounced its participation in the Molotov-Ribbentrop Pact of 1939 and publicly apologized for the destruction and terror that Nazi Germany unleashed on the world;

Whereas, in 1989, the Congress of Peoples' Deputies of the Soviet Union denounced the Molotov-Ribbentrop Pact of 1939 and its secret protocols;

Whereas President Putin recently confirmed that the statement of the Congress of Peoples' Deputies remains the view of the Russian Federation;

Whereas the illegal occupation and annexation of the Baltic countries by the Soviet Union remains unacknowledged by the Russian Federation;

Whereas a declaration of acknowledgment of the illegal occupation and annexation by the Russian Federation would lead to improved relations between the people of Estonia, Latvia, and Lithuania and the people of Russia, would form the basis for improved relations between the governments of the countries, and strengthen stability in the region;

Whereas the Russian Federation is to be commended for beginning to acknowledge grievous and regrettable incidents in their history, such as admitting complicity in the massacre of Polish soldiers in the Katyn Forest in 1940;

Whereas the truth is a powerful weapon for healing, forgiving, and reconciliation, but its absence breeds distrust, fear, and hostility; and

Whereas countries that cannot clearly admit their historical mistakes and make peace with their pasts cannot successfully build their futures: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to

1991 of the Baltic countries of Estonia, Latvia, and Lithuania, the consequence of which will be a significant increase in good will among the affected peoples and enhanced regional stability.

EXPRESSING CONTINUED SUPPORT FOR THE CONSTRUCTION OF THE VICTIMS OF COMMUNISM MEMORIAL

Mr. ALLEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 150, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 150) expressing continued support for the construction of the Victims of Communism Memorial.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, today I submitted a resolution with my colleague, Senator SMITH of Oregon, that I think is especially pertinent this week as we commemorate the 60th anniversary of the defeat of Nazi Germany. The end of World War II in Europe brought the end of Hitler's regime and all of its horrors, but it did not, unfortunately, usher in an era that was free of tyranny as so many had hoped. Instead, the Soviet Union solidified its illegal occupation of its three Baltic neighbors, Estonia, Latvia, and Lithuania, and communism's global expansion condemned millions to totalitarian rule or death.

The resolution we submitted expresses support for the construction of the Victims of Communism Memorial here in Washington, DC. Authorized by Congress in 1993, memoria1 will honor the more than 100 million victims of communist atrocities around the globe. The overwhelming carnage and suffering that occurred at the hand of international communism must never be forgotten. The Victims of Communism Memorial will pay tribute, in our Nation's capital, to those who lost their lives to communist tyranny. Construction of the Memorial is scheduled to begin in the fall of 2005, and when it is completed it will serve as an enduring reminder of communist atrocities and of the value of our Nation's commitment to freedom.

I will also join my colleague from Oregon in submitting a resolution that calls on the Russian Government to acknowledge the Soviet Union's illegal annexation of the three Baltic nations of Estonia, Latvia, and Lithuania during the Second World War and to condemn this aggression by the USSR. In 1939, Joseph Stalin allied himself with Adolf Hitler with the signing of the Molotov-Ribbentrop Pact, an agreement that led to the Soviet Union's occupation of the Baltic countries in 1940. For five decades, Estonia, Latvia, and Lithuania were forced to live under the authoritarian rule of the Soviet empire.

When I speak about the Baltic countries, I speak with a particularly personal interest. Lithuania has a special meaning to me because it is my mother's birthplace, and I have visited there a number of times. When I visited Lithuania for the first time in 1979, it was under Soviet domination. Freedom was at a premium, and the poor people of that country struggled day after day wondering if they would ever have another chance at self-governance. I have journeyed to the region on several occasions since then, and I have witnessed the miracle of independence and democracy coming to Lithuania, Latvia, and Estonia. The amazing transformation for these nations was something that many of us with strong ties to this part of the world had prayed for but never believed would happen in our lifetime.

The legacy of Soviet occupation remains strong even today. Unfortunately, Russia's leaders refuse to acknowledge the wrongs committed by the Soviet Union against the Baltic nations. Russian President Vladimir Putin rejected a suggestion from U.S. officials that he renounce the Molotov-Ribbentrop Pact, and he has publicly clung to the fiction that Estonia, Latvia, and Lithuania asked to become part of the Soviet Union. In order for relations between the Baltic nations and Russia to move forward, the Russian Government and its people must honestly and publicly confront the USSR's brutal legacy of repression. This resolution will call on Russian leaders to take that important step.

Mr. ALLEN. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 150) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 150

Whereas section 905 of the FRIENDSHIP Act (40 U.S.C. 1003 note) authorizes the construction of a memorial to honor the victims of communism;

Whereas the construction of a Victims of Communism Memorial near the United States Capitol in the District of Columbia is scheduled to begin in the fall of 2005;

Whereas construction of the Memorial is supported by many Americans whose country of origin is, or was, a ''Captive Nation'', from Baltic-Americans to Vietnamese-Americans;

Whereas communism has claimed the lives of more than 100,000,000 people in less than 100 years; and

Whereas it is important for the people of the United States to honor and remember the victims of communism by supporting the construction of this memorial: Now, therefore, be it

Resolved, That the Senate expresses its continued support for the construction of the Victims of Communism Memorial.

RECOGNIZING THE 57TH ANNIVERSARY OF THE INDEPENDENCE OF THE STATE OF ISRAEL

Mr. ALLEN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 151, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 151) recognizing the 57th Anniversary of the Independence of the State of Israel.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALLEN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 151) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 151

Whereas in May 1948, the State of Israel was established as a sovereign and independent nation;

Whereas the United States was one of the first nations to recognize Israel, only 11 minutes after its creation;

Whereas Israel has provided the opportunity for Jews from all over the world to reestablish their ancient homeland;

Whereas Israel is home to many religious sites which are sacred to Judaism, Christianity, and Islam;

Whereas Israel provided a refuge to Jews who survived the horrors of the Holocaust and the evils committed by the Nazis which were unprecedented in human history;

Whereas the people of Israel have established a unique, pluralistic democracy which includes the freedoms cherished by the people of the United States, including freedom of speech, freedom of religion, freedom of association, freedom of the press, and government by the consent of the governed;

Whereas Israel continues to serve as a shining model of democratic values by regularly holding free and fair elections, promoting the free exchange of ideas, and vigorously exercising in its Parliament, the Knesset, a democratic government that is fully representative of its citizens;

Whereas Israel has bravely defended itself from attacks repeatedly since independence;

Whereas the Government of Israel has successfully worked with the neighboring Governments of Egypt and Jordan to establish peaceful, bilateral relations;

Whereas, despite the deaths of over one thousand innocent Israelis at the hands of murderous, suicide bombers and other terrorists during the past 4 years, the people of Israel continue to seek peace with their Palestinian neighbors;

Whereas the United States and Israel enjoy a strategic partnership based on shared mutual democratic values, friendship, and respect;

Whereas the people of the United States share affinity with the people of Israel and view Israel as a strong and trusted ally; and

Whereas Israel has made significant global contributions in the fields of science, medicine, and technology: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the independence of the State of Israel as a significant event in providing refuge and a national homeland for the Jewish people;

(2) strongly supports efforts to bring peace to the Middle East, including the disengagement plan of the Israeli government, the Roadmap, and the recent Quartet decision to appoint World Bank President James Wolfensohn as Coordinator for Gaza Disengagement;

(3) commends the bipartisan commitment of all United States administrations and United States Congresses since 1948 to stand by Israel and work for its security and well-being; and

(4) extends warm congratulations and best wishes to the people of Israel as they celebrate the 57th anniversary of Israel's independence.

MEASURES READ THE FIRST TIME—S. 1084 AND S. 1085

Mr. ALLEN. Mr. President, I understand there are two bills at the desk. I ask for their first reading en bloc.

The PRESIDING OFFICER. Without objection, the clerk will report the bills by title.

The assistant legislative clerk read as follows:

A bill (S. 1084) to eliminate child poverty, and for other purposes.

A bill (S. 1085) to provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families.

Mr. ALLEN. I now ask for a second reading, and in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request, all en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will have their second reading on the next legislative day.

MEASURES PLACED ON THE CALENDAR—S. 1061 AND S. 1062

Mr. ALLEN. Mr. President, I understand there are two other bills at the desk that are due for a second reading. I ask unanimous consent that they be read for a second time, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1061) to provide for secondary school reform and for other purposes.

A bill (S. 1062) to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

Mr. ALLEN. Mr. President, in order to place the bills on the calendar under the provisions of rule XIV, I object to further proceeding en bloc.

The PRESIDING OFFICER. Objection having been heard, the bills will be placed on the calendar.

ORDERS FOR FRIDAY, MAY 20, 2005

Mr. ALLEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, May 20. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then return to executive session and resume consideration of the nomination of Priscilla Owen to the Fifth Circuit Court of Appeals; provided further that the time from 9:40 a.m. to 10 a.m. be under the control of the majority leader or his designee and the time from 10 a.m. to 10:30 a.m. be under the control of the Democratic leader or his designee, provided that at 10:30 a.m. the majority leader or his designee be recognized and floor time then rotate every 30 minutes between the two leaders or their designees until 1 p.m, at which time the Democratic leader or his designee be recognized until 1:45 p.m., to be followed by a Republican Senator until 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ALLEN. Mr. President, tomorrow the Senate will resume the consideration of the nomination of Priscilla Owen to be a United States circuit court judge for the Fifth Circuit. We have had another day of substantive debate on the Owen nomination. As announced earlier today, there will be no rollcall votes tomorrow. We will have a busy day of debate, surely, and Senators are encouraged to come to the Senate during the session. As a reminder, the majority leader has announced we will have a vote next Monday at 5:30 p.m. That vote is likely to be a vote on a motion to instruct and to request Members' attendance. More will be said regarding Monday's schedule at the close of business tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. ALLEN. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:52 p.m., adjourned until Friday, May 20, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 19, 2005:

DEPARTMENT OF HOMELAND SECURITY

EDMUND S. HAWLEY, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF HOMELAND SECURITY, VICE DAVID M. STONE, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. TERRY L. GABRESKI, 0000

EXTENSIONS OF REMARKS

A TRIBUTE TO SERGEANT JOHN ''MAC'' SMITH

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. MCINTYRE. Mr. Speaker, I rise today to pay tribute to Sgt. John ''Mac'' Smith of Wilmington, North Carolina, for serving his country valiantly with the 11th Armored Cavalry Regiment in Operation Iraqi Freedom. On May 11, 2005, Sgt. Smith lost his life when a roadside bomb hit his convoy. He was courageously serving his second tour of duty in Iraq, and our heartfelt thanks and prayers go out to his family and friends in this time of grief.

At an early age, John's family knew that he was destined for the U.S. Army. As a toddler, he wore camouflage clothing and once spent a summer at Ft. Bragg. As a student at New Hanover High School in Wilmington, John was in the Army JROTC program, and during his senior year he served as drill team commander. John enlisted in the Army in 2000.

As a member of the Army, he dedicated his career to defending the values this nation holds dear. By risking his life to ensure the safety of others, John made the ultimate sacrifice. His valiant actions and steadfast service remind us of the gratitude we feel toward him and all the other servicemen and women who have lost their lives serving as guardians of this great country. John was indeed a man of courage and integrity.

Mr. Speaker, may the memory of Sgt. John ''Mac'' Campbell live on in our hearts, and may God's strength and peace be with his family.

ARTICLE BY RABBI ISRAEL ZOBERMAN

HON. THELMA D. DRAKE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mrs. DRAKE. Mr. Speaker, I am pleased to share the following article written by a constituent, Rabbi Israel Zoberman.

I vividly recall my pride back in 1980 at the Rockefeller Chapel of the University of Chicago as I received the first doctoral degree awarded to a Rabbi by McCormick Theological Seminary which is affiliated with the Presbyterian Church, USA. The dean whispered in my ear, ''You are the first,'' without public fanfare. A disconcerting reminder of that ambiguous attitude is the recent controversial vote by the 216th General Assembly of the PC (USA) meeting in Richmond, Virginia for studying ''selective divestment'' from companies doing business in Israel with at least one million dollars in revenue, and deemed to hurt the Palestinians.

It is quite astonishing that there was a rather limited sense of the adverse impact of the anti-Israel move on the American Jewish community. Did not the Presbyterian leadership know that the best way to unite the Jews is to challenge the Jewish state in a serious way? Organized American Jewry is surely committed to safeguarding Israel's well-being at the critical front here at home. For a mainline Protestant denomination, though with dwindling members but with yet considerable influence, to go beyond past critical resolutions and risk alienating its Jewish partners in common quests of interfaith dialogue for a better America and humanity, is a cause for an evaluative pause.

What has gone so wrong? How can we set the record straight and rejoin in essential and increased cooperation, establishing better lines of communication? In a climate of rising world anti-Semitism, won't divestment worsen matters, threatening to place Israel in the pariah state category as was the case with South Africa which the Presbyterians rightly pursued? Would other religious bodies and secular institutions be tempted to follow suit? Wouldn't added economic pressure and isolation damage Israel's ongoing courageous peace work, hurting a close ally of the U.S.?

To attack Israel following four bloody years of unremitting and victimizing terrorist suicide bombings that no other nation would have tolerated without a major response that surely Israel could deliver, is a sad commentary on the exhibited callousness of mostly friends tuning out a certain reality. A reality including the plight of the Christian minority in the Arab Muslim world in general and particularly now among the Palestinians where ironically the Presbyterians have long roots of involvement, it, obviously affecting their stance on Middle East issues. It is also the outcome of too many Presbyterians lacking pertinent information.

The cited Israeli security barrier as problematic ignores the dramatic reduction in terrorist infiltrations as well as Israel's Supreme Court intervention in correcting the barrier's path to alleviate hardships, with its final destiny dependent upon future developments. It was after all the late Chairman Arafat who responded in 2000 at Camp David to the offered vision of peace with improved upon past violence, reverting to his old terrorist persona with which he chose to die. It is Prime Minister Sharon who succeeded in radically transforming himself to the point of supporting a Palestinian state, presently risking his life with his disengagement plan from Gaza and parts of the West Bank.

How can an enduring and inspiring Israel, a beleaguered outpost of Western values, be compared to a corrupt and terrorism-friendly Palestinian Authority yet to prove with its newly elected president Mahamud Abbas, through Israeli cooperation, that our trust in its democratic and peaceful potential is not dangerously misplaced? How tragic indeed that Palestinian suffering is largely due to its leaders' ineptitude and the duplicity of the Arab nations through the years, abusing their brethren's plight for their own regressive agenda, while refusing to grant them their own state prior to 1967 when Israel was saddled with the territories following an attack on Jewish sovereignty.

Lastly but not least, the continued Presbyterian misguided goal to missionize among Jews remains a blight on a denomination that deserves better. Commemorating the 60th anniversary of the liberation of the Holocaust's death camps with a first, special session of the United Nations General Assembly on January 24th, 2005, we recall that modern Israel arose from the martyrs' ashes. History has taught us that when we deny a people's spiritual authenticity we ultimately invite its physical annihilation.

SALUTING ANTHONY DEION BRANCH

HON. CHARLES W. ''CHIP'' PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. PICKERING. Mr. Speaker, Mississippi's community and junior college system produces some of the top football players in the Nation. They are always targets of recruitment from universities around the country seeking to bolster their football programs. From time to time, we produce a truly great player who can compete at the highest level with the leadership and poise necessary to be the top player in the top game. Anthony Deion Branch from Jones County Junior College—in my home county—was named Super Bowl XXXIX Most Valuable Player. Today I'd like to salute that achievement and speak a little about his road to that success.

Deion's career began in Albany, Georgia where he excelled in track, football and enjoyed soccer in high school. After graduating he made the long drive to Ellisville, Mississippi where he competed and earned a spot on the Jones County Junior College football team. There he grabbed 37 passes for 639 yards and five touchdowns as a freshman on the Bobcat squad. The following year he took 69 receptions for 1,012 yards and nine touchdowns, earning second-team AII-American honors and leading JCJC to a 12–0 mark and a victory at the Golden Isles Bowl to bring home the junior college national championship.

The University of Louisville recruited Deion who hauled in 143 passes for 2,204 yards and 18 touchdowns in his two years there. He became only the second player in school history to record multiple 1,000 yard seasons and is listed fourth and sixth respectively in the school records for career touchdown catches and receptions with the Cardinals—and that in just two years.

The New England Patriots used their Number 65 pick in the 2002 Draft to bring in Deion to what many are now describing as a dynasty—three Super Bowl Victories in four years, two with Deion on the team.

Deion's first Super Bowl ring came without the MVP award; his colleague and football legend Tom Brady won it that year. But while many of us fans thought he should be considered, we didn't have to wait long to be satisfied. The following year, despite an injury in his second game which kept him on the sidelines for the next seven matches, Deion finished the season with 35 receptions for 454 yards and four touchdowns.

● 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.

Deion had trained and focused and coming into the end of the season from an injury, he was still ready for the premier football event in the world. Finishing the night with an NFL record-tying 11 receptions for 133 yards in the Super Bowl, he became just the fourth receiver in NFL history to receive the MVP award and is already being listed with greats like Jerry Rice and Dan Ross.

Mr. Speaker, Deion's team-first attitude and strong work ethic has paid off and we in Mississippi are proud of him and salute his continuing achievements. I know we will continue to see him excel in the future and all of us from Jones County, Mississippi will remember him for his years with us and salute his determination, skill and triumphs.

IN CELEBRATION OF THE 80TH BIRTHDAY OF MALCOLM X

HON. CHARLES B. RANGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. RANGEL. Mr. Speaker, I rise today to commemorate what would have been the 80th birthday of Malcolm X, formally El Hajj Malik El–Shabazz. This is an opportune moment for this country and the world to reflect on the life and times of this extraordinary individual. In his short life, Malcolm X overcame many difficulties and challenges to become a leading figure in the movement for black liberation.

Malcolm X was born Malcolm Little on May 19, 1925 in Omaha, Nebraska. He was one of eight children born to Earl and Louise Little. Earl Little was an outspoken Baptist minister and supporter of Marcus Garvey's Universal Negro Improvement Association. He taught his family of the importance of working together for their collective advancement and of the need to restore pride and commitment in their community and race. His fierce advocacy for racial justice prompted a number of death threats against him, required his family to relocate twice before Malcolm's fourth birthday, and eventually to lose their home to arson.

In 1931, the body of Earl Little was found lying across the town's train tracks. The police ruled the death an accident, but Malcolm learned the true cost of passionate activism. His mother suffered an emotional breakdown and was institutionalized, following the death. His siblings were split up amongst various foster homes and orphanages. Malcolm was separated from the family he had known and loved.

Malcolm nonetheless was an outstanding student. He was at the top of his class in junior high school and had aspirations of becoming a lawyer. With the early lessons of his father about the importance of education and self-pride, Malcolm was prepared to shine in the academic and legal worlds. However, he lost interest in these aspirations when a favorite teacher crushed his dreams and told him that law was not a realistic goal for a Black man in the 1940s.

Disillusioned, Malcolm dropped out of school after the 8th grade and moved to Harlem, where he unfortunately turned to a life of crime. By 1942, Malcolm was coordinating various crime rings in New York City. In 1946, he was arrested, convicted on burglary charges, and sentenced to 10 years in prison. Finding himself headed in the wrong direction and exposed for the first time to the teachings of the Nation of Islam, Malcolm re-dedicated himself to academic pursuits and understanding economic and social disempowerment.

Undoubtedly guided by his father's activism, his own life experiences, and his time in NYC, Malcolm X became a loyal adherent and follower of Minister Elijah Muhammad and the Nation of Islam. He argued that the discrimination and racism present in American society kept African-Americans from achieving true political, economic, and social power and that the system would continue to perpetuate discrimination and racism unless African-Americans stood up for themselves and against the system.

In keeping with the teachings of the Nation of Islam, Malcolm adopted the "X" as a surname to demonstrate that his African identity and cultural roots had been unknown to him. Following his parole in 1952, he became an outspoken defender and spokesman for the Nation of Islam. He was placed in charged of new mosques in Harlem, Detroit, and Michigan. He became an effective voice of Nation of Islam through newspaper, radio and television communications and was credited with helping to increase membership from 500 in 1952 to 30,000 in 1963.

While he spoke in bitterness and hatred towards whites, he spoke about his experiences and interactions with people. From the death of his father to his favorite teacher to numerous others he had encountered, Malcolm talked about what he knew and that, like for many African-Americans at the time, was not a beloved experience. He spoke for those whose dreams were crushed by the educational system, whose families suffered at the hands of economic injustice, whose leaders fought for social equality, and whose futures did not look bright.

Malcolm however would become disheartened by the Nation of Islam, after learning of indiscretions committed by Minister Muhammad and attempts by the organization to conceal them. Unwilling to participate in what he believed was deception, he was marginalized within the organization. In 1964, he separated from the Nation of Islam and formed his own organizations, the Organization of Afro-American Unity and the Muslim Mosque, Inc.

In 1964, Malcolm X traveled outside the United States to Africa, Mecca, and Saudi Arabia. The trip would become a transcendent period in his life. For the first time in his life, he came in contact with different cultures and races that treated him with respect for who he was. He broke bread with Muslims of various races and saw that brotherhood was not limited by race. He saw humanity and compassion in its true form and was moved by the recognition that it really was universal.

When he returned, Malcolm adopted the name El-Hajj Malik El Shabazz. He returned to the United States with a new sense of purpose and a different set of experiences. He spoke about how he had met "blonde-haired, blue-eyed men I could call my brothers." He was prepared to work with men of all races to achieve true racial justice. He was prepared to lead a movement for the liberation of the disadvantaged in America.

Unfortunately, Malcolm X was assassinated at the Audubon Ballroom in Harlem on February 14, 1965—more than 40 years ago this year. At Malcolm's funeral, the actor Ossie Davis eulogized him and asked the crowd of onlookers, "Did you ever talk to Brother Malcolm? Did you ever really listen to him? For if you did you would know him. And if you knew him you would know why we must honor him." Unfortunately, we will never know what Malcolm X could have done with another 40 years.

Mr. Speaker, I submit into the RECORD a statement by Trans-Africa Forum President Bill Fletcher, Jr. demonstrating how Malcolm was an inspiration in the global struggle for freedom and human rights, with many world leaders embracing him and his philosophy.

MALCOLM X: REMEMBERING HIM AS MORE THAN A POSTAGE STAMP

A STATEMENT BY TRANS-AFRICA FORUM PRESIDENT BILL FLETCHER, JR. ON THE OCCASION OF THE 40TH ANNIVERSARY OF THE ASSASSINATION OF MALCOLM X

February 21, 2005—February 21, 2005 marks the 40th anniversary of the assassination of African American freedom fighter Malcolm X, aka El Hajj Malik El-Shabazz. Realizing that had he lived, Malcolm would have been turning 80 this year stands in contrast to the memories many of us have—or have gained since his death through photos, recordings of speeches and documentaries—of an audacious young Black man who unquestionably spoke truth to power. Malcolm, gunned down at the age of 39, represented a defiance and commitment that most of us can only aspire to achieve. He spoke our anger against oppression, and our pain suffered from this same oppression, while constantly demonstrating a love and respect for us as a people.

Similar to the experience in the years that have passed since the death of Martin Luther King, there have been constant attempts to rewrite the life and thought of Malcolm X. Despite all of this, generation after generation have rediscovered the real Malcolm, even if only in pieces that have to be assembled in the giant game of history.

In an era where much confusion reigns within Black America due to the emergence of figures such as General Colin Powell and Dr. Condoleezza Rice, it is useful to reflect upon two central themes in the life and work of Malcolm X: one, that our struggle in the United States as African Americans was and is fundamentally a struggle for human rights rather than civil rights. Two, that our struggle is bound up with struggles taking place around the world against imperialism and other forms of injustice.

The issue of civil rights vs. human rights is critically important and for more than semantic reasons. Malcolm was challenging much of the leadership of the then Civil Rights Movement to understand that the issue before Black America was not simply or only one of constitutional rights within the U.S. framework. Malcolm suggested, following upon leaders such as Du Bois, Robeson and Patterson, that the issues at stake for African Americans were more than discrimination, as important as that was and is. Instead, Malcolm observed that the oppression faced by Black America has been central to the reality of the USA since before it was the USA, i.e., since the beginning of colonial North America. Our situation, in other words, was not an aberration from an otherwise humane record. Rather, the oppression that we have faced has shaped the basic existence and substance of the United States, and, along with the genocide faced by Native Americans, helps one to understand the inability of this country to establish a truly democratic republic.

For Malcolm, then, Black America was demanding not only an end to discrimination, but recognition of our human rights as a people, up to and including the right to national self-determination. Malcolm concluded that as a people who had been subjected to hundreds of years of naked and vicious oppression, only an international body,

such as the United Nations, had the location and moral authority to address the true resolution of our condition.

For this, Malcolm became one of the most dangerous people in the USA, at least for those who oppress us.

Malcolm did not stop there. Linked to his understanding of human rights, Malcolm also situated our struggle for human rights alongside the struggles that were underway in Asia, Africa, the Caribbean and Latin America for national independence and liberation. Again, following in the footsteps of freedom fighters going back to the early 19th century, Malcolm insisted that to only view our struggle through the prism of North American eyes would be to condemn our struggle to failure. As such, Malcolm paid attention to educating Black America to the relevance of struggles underway overseas, such as the movement in the Democratic Republic of the Congo for complete freedom from both the Belgians and the USA. He was also an early and incisive critic of the expanding U.S. aggression in Indochina.

To build ties, Malcolm spent time developing bonds of friendship and comradeship with some of the most important international leaders of the struggles for national liberation of the 1960s. These were not symbolic, but represented an attempt to build allies who could be called upon to support our struggle for freedom.

For this, Malcolm became one of the most dangerous people in the USA . . . at least for those who oppress us. For us, the oppressed, he was our champion. Far from being a savior, Malcolm saw himself as a spokesperson for a movement; yet never more important than the movement. He understood that it is people in motion rather than individual leaders who shift the tracks of history.

And so, it is time to again remember Malcolm and to cherish him through continuing in his footsteps, footsteps that were molded by an insistence on struggle, audacity, and, yes, love for his people.

CONGRATULATIONS AND BEST WISHES TO COLONEL ALAN R. LYNN

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. EDWARDS. Mr. Speaker, I rise to recognize a great Army officer and soldier, Colonel Alan R. Lynn, and to thank him for his contributions to the Army and the country. On Thursday, June 2, 2005 Colonel Lynn will relinquish command of the Army's 3rd Signal Brigade which is stationed at Fort Hood, Texas for reassignment to the Army Staff in Washington, DC.

Colonel Lynn began his military career in 1979 following his graduation from the University of Pennsylvania at California, Pennsylvania. Commissioned as an Air Defense Artillery officer from ROTC he completed several successful assignments in the Air Defense Artillery before he transferred to the U.S. Army Signal Corps. During Operations Desert Shield and Desert Storm he served as the 1st Brigade Signal Officer with the fabled 101st Airborne Division. In 1997, he commanded the 13th Signal Battalion, 1st Cavalry Division both at Fort Hood, Texas and in Bosnia with Task Force Eagle. Colonel Lynn took command of the 3rd Signal Brigade, Fort Hood, Texas on June 13, 2002. He deployed the Brigade to 66 separate locations throughout Iraq in January, 2004 in support of Operation Iraqi Freedom creating the largest tactical communications network in Army history. For over a decade Alan has been tested in conflict and hardened in battle to become one of the Army's finest and most experienced Signal Corps commanders.

Alan is a consummate professional whose performance personifies those traits of courage, competency and commitment that our nation has come to expect from its Army officers. It is with sadness that we will wish him Godspeed and good luck as he leaves Fort Hood for his new assignment.

Alan's career has reflected his deep commitment to our nation, and has been characterized by dedicated, selfless service, love for soldiers and their families and a commitment to excellence. I ask Members to join me in offering our heartfelt appreciation for a job well done and best wishes for continued success to a great soldier and friend—Colonel Alan R. Lynn.

H.R. 1268, EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mrs. MALONEY. Mr. Speaker, because of this administration's lack of accountability for the money sent for the war in Iraq, I could not support this, the third emergency spending bill for Iraq, when the House first voted on it in March. It now comes back to us from the conference in worse shape than it was before, and I again cannot support it.

The administration sold this war to the American people and Members of Congress under false pretenses, and the American people cannot continue to indefinitely fund this administration's gross incompetence, particularly without any real oversight tied to it. Meanwhile, important priorities here at home like homeland security and education go wanting for money. We have a new record level of debt, a record budget deficit and a record trade deficit.

Mr. Speaker, my father and brother have both fought in wars for our country, and I support and honor our troops. I want nothing but the best protection and best equipment for them. Still, despite the hundreds of billions in taxpayer money that has been spent on Iraq, a recent New York Times report detailed how our soldiers in Iraq still are ill-equipped for the resistance they face. Why hasn't the money first and foremost gone to supply our troops with the equipment they need as quickly as possible?

There have been independent audits showing billions of dollars in Iraq that have been misspent or that have simply gone missing. And there still is little to no oversight—there still is no open and honest accounting—to keep this administration in check, as they have repeatedly missed deadlines to detail the past, current and future spending.

This bill now includes the REAL ID Act, which is an entirely separate issue from funding and should have no part of this bill. I am very concerned about the implementation of such sweeping provisions in this manner. There is no money to implement these new laws, we've had no hearings to understand how they would work, and the states, which would have to administer these laws, haven't even been consulted. Administratively these provisions seem difficult to implement, at best. Congress should never go about loading something like this onto a bill without full debate, but that's exactly what has happened in this case.

Certainly, there are parts of this supplemental spending bill that I strongly support. The $650 million for tsunami relief and reconstruction is very important. It is disappointing, however, that the conference report does not include the amendment I introduced that was attached to the House version, which would have devoted $3 million for UNFPA's vital work in the tsunami region. This money would have greatly benefitted pregnant tsunami-stricken women by fostering better maternal health and reducing infant mortality.

The improvement in death benefits for the military in this bill are crucial, and they are a long time in coming. I also support the provisions to aid the peace in the Sudan, as well as development assistance the president proposed for the West Bank and Gaza.

Nevertheless, this administration must enforce a better accounting of the taxpayer money it spends. Before I can vote for another enormous expenditure of the American taxpayers' money for this war, I must be convinced that this administration will keep tabs on the money and make sure our troops get the equipment they need. Doing so will be good for the war effort, and will be good for our troops.

LANCE CORPORAL JONATHAN GRANT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. UDALL. of New Mexico. Mr. Speaker, I rise today to honor the life of Lance Corporal Jonathan Walter Grant.

Jonathan lived his life by always putting others first, and last Wednesday he made the ultimate sacrifice while serving in Iraq.

Lance Corporal Grant was among the six Marines killed during combat "Operation Matador" when their troop transporter rolled over a roadside bomb in the Al Anbar Province.

Just 23-years-old, Jonathan lived life always showing courage and maturity beyond his years. He was born in the Pojoaque Valley of New Mexico and raised by his grandmother Margie Warner, who he loved dearly. He received his general equivalency diploma in the year 2000 and joined the Marines in 2002, working the entire time to support his family and build a future.

Upon his planned return from Iraq this October, Jonathan was planning to marry his high school sweetheart and fiancée, Eva Maestas. Eva—who is now a kindergarten teacher—and Jonathan had been together for 7 years. Jonathan leaves behind Eva, their 5-year-old daughter Cynthia, and their 17-month-old son Evan.

As Cynthia and Evan get older, they can always be proud of their father, Lance Corporal Jonathan Walter Grant, a Marine—who always

rose to the challenge and served our country proud.

Our heartfelt prayers and sympathies are with Jonathan's family and friends during their time of great loss. We will always remember his bravery and the sacrifice he made while serving our nation.

CONGRATULATING THE WILKES-BARRE FINE ARTS FIESTA ON THE OCCASION OF ITS 50TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. KANJORSKI. Mr. Speaker, I rise today ask you and my esteemed colleagues in the House of Representatives to pay tribute to the Fine Arts Fiesta in Wilkes-Barre, Pennsylvania, which is celebrating 50 years of artistic and cultural presentation to the citizens of northeastern Pennsylvania.

Founded in 1956 under the leadership of Annette Evans, Ruth Schooley and Alfred Groh, the Fine Arts Fiesta is the oldest full-scale arts festival in the Commonwealth of Pennsylvania.

Making the event even more special is the fact that it has never charged the public for admission, preferring to make the event open to anyone, regardless of ability to pay. Instead, the Fine Arts Fiesta, always held on Wilkes-Barre's historic Public Square, has managed to fund itself through state grants and voluntary contributions from individuals, corporations and foundations.

Throughout its history, the Fine Arts Fiesta has always highlighted children's entertainment.

At noon on May 24, 1956, then Mayor Luther M. Kniffen sounded the Old Ship Zion bell and the Fine Arts Fiesta was born. It was also a highlight of Wilkes-Barre's Sesquicentennial that was being observed in 1956.

Dr. Eugene S. Farley, then president of Wilkes College, offered remarks and stressed the interrelation between the Wyoming Valley's cultural assets and the economic and industrial well being of the community. He concluded that the Fiesta plays a significant role in the overall growth of the community.

By 1962, the Fine Arts Fiesta had grown to include 36 organizations. More than 1,000 volunteers were working to present artistic displays from virtually every art and craft.

In 1963, Mrs. C. Wells Belin, of Scranton, a leader in the local art world, delivered the Fiesta's opening address. She spoke of the ''four great assets of Fiesta.'' She went on to describe those assets as ''public relations value . . . positive example for other cities . . . importance to industries already here and those planning to come here and, finally, as a way of helping people broaden their horizons and appreciation of culture and the arts.

Also in 1963, The Fine Arts Fiesta gained national recognition after George Ralston, chairman of the Wilkes-Barre Recreation Board, nominated the Fiesta for an award from the National Recreation Committee. That award was presented to Fiesta founder Annette Evans in the presence of the late U.S. Congressman Daniel J. Flood.

Mr. Speaker, please join me in congratulating The Fine Arts Fiesta on a half century of cultural service to the citizens of northeastern Pennsylvania and beyond, some of whom travel great distances to attend and enjoy the Fiesta. Clearly, the Fiesta has enriched the lives of hundreds of thousands of people and our community is a far better place because of it.

DEDICATION OF THE CONGRESSMAN IKE SKELTON BRIDGE

HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. CLEAVER. Mr. Speaker, it has come to my attention that Highway 13 Missouri River Bridge has been named for my good friend, and fellow Missourian, The Honorable Ike Skelton. The dedication ceremony took place on May 14, 2005, in Lexington, Missouri, Mr. Skelton's hometown. I know that all the Members of the House will join me in congratulating Mr. Skelton on this honor. Mr. Skelton's remarks at the event are set forth as follows:

Thank you so much, Joe Aull, for your generous introduction. Members of the Missouri General Assembly, Ray and Lafayette County neighbors, and my fellow Missourians.

Today, we dedicate an engineering feat—the magnificent new bridge across the wide Missouri. What an opportunity to kindle pride in our community and pride in our state. This is truly a moment to remember.

Anyone who lives around here or who travels along this portion of Highway 13 can testify that for years people have asked, ''when are we going to get a new bridge?'' More recently the question has changed to, ''when is that new bridge going to open?'' So believe me, I think it is impossible to exaggerate what a very happy day this is for those who have waited so long for this day to arrive.

According to the Roman orator Cicero, the greatest of all virtues is gratitude. And, I want to express my gratitude to my neighbors, the members of the Highway 13 Missouri River Bridge Dedication Steering Committee, the members of the Missouri Department of Transportation, and the members of Missouri's General Assembly for the naming of this bridge. Most of all, I am grateful to my wife, Susie, for her tireless support that allows me to carry out my public service. I must add that I am pleased that so many of my high school graduating class are with us today.

I acknowledge this honor with a deep sense of humility. Representing Missourians is such a privilege, as I have had a love affair with the State of Missouri all my life. Suffice it to say that I will endeavor, in the days and years ahead, to merit this high honor.

This day opens a notable chapter in the history of Ray and Lafayette Counties, and in the history of our State. The taxpayers generously paid for the bridge and the surrounding roads, with the politicians and government officials setting aside the money—almost $53 million in Federal and State funds for the bridge itself. But the achievement lies in the skill of the designers, engineers, and laborers whose work translated our dream of a new bridge into reality, providing us with a safe way to travel and taking us into the future, across the wide Missouri.

But because this is such a momentous day, it is appropriate to look back and reflect on the previous chapters of our history that led us to this place today. This is a bridge over truly historic waters—the wide Missouri.

The river is central to the history of those who have lived in this region. The Indians who lived along its banks inspired the river's name. The word ''Missouri'' is believed to have derived from the Indian word for ''canoe'', and the Missouri Tribe were known as the ''people of the wooden canoe.''

French trappers encountered the Missouri Indians in the late 1600s in present day Saline County. Another native group, the Little Osage, lived in this area during the 1700s. Scholars say that both tribes used the river for transportation and trade with the Europeans.

In addition to the heritage of the Indians who made their home along the river, the legacy of the French trappers endures. The names the French gave to the tributaries that flow into the Missouri River still adorn our maps: Tabeau Creek, the Lamine River, Chouteau Creek, and the Moreau River.

After the fledgling United States of America purchased the Louisiana territory, Lewis and Clark's Corps of Discovery traveled these waters, following the river across the continent. In fact, our new bridge is quite near the spot in present-day Ray County where Lewis and Clark's party of explorers made camp in June 1804.

Fifteen years later in 1819, a U.S. Army Corps of Engineers expedition to explore the Missouri River and its tributaries demonstrated the potential usefulness of the river for the movement of goods, settlers, and troops. It also led to the Corps' assignment to tame the river for navigation, removing the treacherous snags that endangered boats and steamboats.

The Missouri artist George Caleb Bingham immortalized the jolly flatboatmen who plied the waters of this river as the frontier opened in the early to mid–1800s. The flatboatmen were known for their songs, their chanties, including the beautiful and haunting American folk song, Shenandoah. The now-familiar boatmen's song, which told of a trader who loved the daughter of Indian Chief Shenandoah, made its way down the Missouri and Mississippi Rivers to the American clipper ships, and thus around the world.

In the years to come, steamboats made the river their home. From about 1819 to 1881, steamboats paddled the river, taking settlers west and carrying trade goods and merchandise. Lexington became a major steamboat port, where manufactured goods from St. Louis and other points east were unloaded, and raw materials were loaded to travel down river.

Local shores witnessed one of the darkest days of the steamboat era when the steamboat Saluda called on the Port of Lexington in 1852. Encountering problems with the river's current and heavy running ice, the Saluda's boilers exploded and more than 200 passengers and crew perished.

During the War Between the States, steamboats carried troops and acted as armed transports, patrolling the river for Confederates attempting to cross the wide Missouri.

In the days before a bridge crossed the wide Missouri here, ferries enjoyed brisk business. The first ferry was established in 1819 by Lexington's founder, Gilead Rupe. Both the steamboat and the ferry operations lost customers as railroads began to lay their tracks throughout the west, but the ferry business held on, providing river crossing services until the opening of the bridge in 1925.

Attempts to bridge the river between Lafayette and Ray Counties were made in 1889 and 1894, before what we now call the ''old bridge'' was built across the wide Missouri.

Construction began in 1922, and the bridge opened on November 25, 1925. Even today, we can relate to the excitement and the anticipation of those citizens who were anxious to use the bridge for the first time.

As we dedicate the new bridge, we open a new chapter of our history on the Missouri River. For almost 80 years, the old bridge has served us faithfully. But after decades of service, it didn't take an engineer to spot serious problems. With portions of the old bridge floor falling through, and the crumbling of the sides, and the rusting of the superstructure, many have feared that our continued use of the old bridge was an invitation to tragedy. The new bridge comes none too soon.

The safety factor is the most immediate benefit of the new bridge for those who cross the wide Missouri at this point. Countless drivers have suffered from white knuckles on the steering wheel every time they crossed the old span.

Safety comes first, but we cannot underestimate how important modem and well-maintained roadways are for local economic development. A bridge that meets modem standards will enable companies and manufacturers to deliver and receive the goods they need to conduct business. It will allow farmers to safely transport agricultural goods. It will allow residents and visitors alike to travel freely and frequently.

This bridge symbolizes progress and that essential quality of American optimism: faith in the future; belief in ongoing prosperity; and our continuing effort to improve our country that has allowed America to prosper.

For thousands of years, the river has been witness to history. The new bridge will bear witness as those who cross the wide Missouri follow this road and add new chapters to the history of America.

Today, we celebrate. This achievement is a milestone for our state of Missouri. When you cross the bridge over the Missouri River, look down, and in your mind's eye, imagine the boatmen of the early 1800s as they pole their flatboats down the river toward the Port of St. Louis. And, if you listen intently, you will hear them singing that chanty of the day—

Shenandoah, I long to hear you,
Away, you rolling river,
Oh, Shenandoah, I long to hear you,
Away, I'm bound away,
'Cross the wide Missouri.

RECOGNITION OF 25TH ANNIVERSARY OF MT. ST. HELEN'S ERUPTION

HON. BRIAN BAIRD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. BAIRD. Mr. Speaker, I rise today in recognition of the 25th anniversary of the eruption of Mt. St. Helens.

At 8:32 a.m. on May 18, 1980, Mount St. Helens erupted. The eruption lasted 9 hours, killed 57 people, and devastated 234 square miles of land. The landscape and community of southeast Washington were forever altered.

The eruption was triggered by an earthquake measuring 5.1 on the Richter scale that shook the northern face of the mountain, causing a massive avalanche of rock debris. This landslide opened a crater that engulfed the mountain's summit and produced a massive lateral blast eruption. Mudflows carrying millions of cubic yards of debris washed down the river valleys and into the Columbia River. Tons of ash were strewn across eastern Washington and into the Earth's stratosphere.

After 18 years of relative quiescence, Mount St. Helens' volcano recaptured the world's attention in September of 2004 when it showed signs of reawakening. On September 23 a swarm of small, shallow earthquakes began in and beneath the 1980–1986 lava dome. Activity has continued on and off since then, with the lava dome growing and letting off periodic steam eruptions.

To protect the safety of communities located near Mount Saint Helens, I worked with Congressman NORM DICKS and Senator PATTY MURRAY to secure an additional $1.5 million for the United States Geological Survey in the Emergency Supplemental to conduct the necessary monitoring of Mt. St. Helens. This funding will increase the safety of citizens living near the area and help protect commercial aircraft.

Today, to commemorate Mt. St. Helens' 25 years of recovery and renewal, people are gathering at Weyerhaeuser's Forest Learning Center at Mount St. Helens to reflect on the 1980 devastation and celebrate 25 years of nature's recovery, including the return of forests, plants, and wildlife. Additionally, Weyerhaeuser is pledging $1 million in wood products, funding, and volunteer labor to help build Habitat for Humanity homes at the 2005 Jimmy Carter Work Project and in other communities across the United States and Canada.

TRIBUTE TO THE LATE ALEXANDER ASHE, JR.

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. MEEK of Florida. Mr. Speaker, I want to bring to the attention of my colleagues the passing of Captain Alexander Ashe, Jr., an accomplished law enforcement professional and tireless community servant and activist, who died last Friday, May 13, 2005. Captain Ashe joined the Miami-Dade Police Department (MDPD) in December 1973. He leaves behind a legacy of achievement and inspiration, for he was an example of what genuine caring and unrelenting commitment can accomplish. His passing is a great loss for our community.

To let you know the kind of man Captain Ashe was, I want to share with my colleagues this passage from his last job evaluation, in 2002, which included the following: "He has demonstrated concern for his subordinates, making himself available for guidance and direction. He encouraged his personnel to seek personal growth through departmental training and the promotional process." MDPD Major Chester Butler described Captain Ashe as ". . . someone who thought along the same line as I did . . . it was the best working relationships I've been fortunate to have in my career. I could always depend on him to be there for me."

As a resident of our community, he provided great wisdom and inspiration on issues affecting the Miami-Dade Police Department and was willing and ready to give of himself and put his problems on the back burner to help others. His colleagues remember him as someone who always had the knack for providing excellent insight and courageous guidance on countless situations aimed at enhancing the professionalism of the MPDP. He was helpful to many junior officers, assisting them in their professional growth and development to help them qualify for higher rank and responsibility, and he did this without asking anything in return. A respected member of the Phi Beta Sigma Fraternity, he was a golf enthusiast who was also fascinated with computers.

Captain Alexander Ashe, Jr. is survived by his wife, MDPD Officer Patricia Ashe, son James Ashe IV; daughters MDPD Officer Deidre Ashe, Jasmine and Rene; his mother, Jefferine Richards, his extended police family and numerous other relatives and friends. As a public servant, Captain Ashe truly exemplified a unique leadership whose courageous vision and genuine caring for his fellow officers and the people whom he pledged to serve and protect evokes the character of his humanity. This is the legacy he left behind and it is how we will always remember him.

IN RECOGNITION OF THE 2005 U.S. PHYSICS OLYMPIAD TEAM

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. EHLERS. Mr. Speaker, I rise today to honor the achievements of the members of the 2005 United States Physics Olympiad Team. These 24 individuals have shown tremendous aptitude in physics and leadership amongst their peers.

It is very challenging to earn a spot on this prestigious team. After being nominated by their high school teachers and taking a preliminary exam, 200 students qualified to take the second and final screening exam for the U.S. Physics Team. The 24 survivors of that group represent the top physics students in the U.S., and they are now at a 9-day training camp of intense study, examination and problem solving. Five of these students will advance and compete for our country in July at the International Physics Olympiad in Salamanca, Spain.

Members of the 2005 team include: Thomas D. Belulovich, David Chen, Timothy F. Credo, Nickolas A. Fortino, YingYu Gao, Sherry Gong, Timothy H. Hsieh, Anthony E. Kim, John Y. Kim, Jenny L. Kwan, Chor Hang Lam, Samuel S. Lederer, Menyoung Lee, David Lo, Anton S. Malyshev, Sarah E. Marzen, Eric J. Mecklenburg, Aaron H. Potechin, John D. Schulman, William T. Throwe, Madeleine R. Udell, Ameya A. Velingker, Daniel P. Whalen and Fan Zhang.

Mr. Speaker, as a nuclear physicist and formal physics professor, I have worked to promote math and science education and to emphasize the pivotal role these fields play in our nation's economic competitiveness and national security. Educating our K–12 students in math and science is very important. It is encouraging to see so many young, outstanding physics students enthusiastic about science. I hope their enthusiasm will be contagious to other students who will be drawn to challenging and rewarding careers in math and

science. I am very thankful for these future leaders and ask that you please join me in congratulating them on their wonderful achievements.

RECOGNIZING JULIUS HARPER DAVIS

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. PICKERING. Mr. Speaker, recently, Millsaps College in Jackson, Mississippi dedicated Harper Davis Field to a man who coached there for 25 years, and who has built a lifetime legacy of service to sport and his fellow man across the state. Coach Harper Davis, affectionately called "Hippo" by friends and teammates, called the rededication of Millsaps' Alumni Field to him the "greatest honor of my life." And while leading the Millsaps Majors he built a record of 138–79–4 including an undefeated season in 1980, his life has much more to honor.

At age 17, Harper Davis left his Delta home in Clarksdale, Mississippi and enlisted in the US Marines Air Corps as a pilot to serve his Nation in World War II. After the War was over, he was met at Texas Grand Prairie Air Station by Mississippi State University assistant coach Phil Dickens who had the Bulldogs' playbook in hand. Two days later they arrived in Starkville for two practices before his first game where Davis scored two touchdowns as MSU defeated Auburn 20–0. Two days of study and two days of practice were followed by two touchdowns. In addition, during those two days, Harper Davis met Camille, his future wife. He would go on to be named to the All–SEC team while at State where he also ran on the school's track team. He was co-captain of the football team, voted Best Athlete, President of the "M" Club and named "Mr. Mississippi State University." Additionally he was a member of the Kappa Sigma Fraternity, Omicron Delta Kappa, Blue Key and the Colonels Club.

He graduated from Mississippi State with a bachelor of science degree in business finance and mathematics in 1948, in 1962 earned a master's degree in education administration.

After leaving Mississippi State University, Harper Davis was a first-round draft choice of both the Chicago Bears of the National Football League and the Los Angeles Dons of the All-American League. Harper Davis played one year with the Dons before the league folded and then went on to play with the Bears as well as the Green Bay Packers. Many considered him the fastest man in the NFL.

Over the years, Harper Davis has coached the backfield at his alma mater as well as head coach at West Point High School, and Columbus High School before arriving at Millsaps College. He has been inducted into the Mississippi State Sports Hall of Fame and the Mississippi Sports Hall of Fame and was named Mississippi Sportsman of the Year in 1976. He has been honored nationally for his contributions to the sport of football and his work with the Cystic Fibrosis Foundation.

Harper Davis is a member of Christ United Methodist Church and with his now departed wife, the former Camille Hogan of Starkville, has three sons, Michael, Andrew and Patrick with four grandchildren, Morgan, Drew, Paul and Brad.

Mr. Speaker, Harper Davis has now been coaching football for over 50 years and he continues today at Jackson Academy, where four of my sons attend. His gentle firmness and wise lessons continue to build young men in Mississippi. I am glad to recognize him today and honor a lifetime of service.

EXCERPTS FROM CONGRESSIONAL BRIEFING BY IRAN HUMAN RIGHTS AND DEMOCRACY CAUCUS

HON. TOM G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. TANCREDO. Mr. Speaker, last month, leaders and representatives of 65 Iraqi political parties and groups unveiled a petition signed by 2.8 million Iraqis, sharply criticizing neighboring Iran's interference in Iraq and warning of the specter of "Islamic fundamentalism's stealthy domination" of their country. Iraqi signatories included ethnic Arabs, Kurds, and Turkmen, from different religious backgrounds, including Sunni Muslims, Shiite Muslims, Christians, and people of other faiths.

The petition offered strong support to the main Iranian opposition group, the People's Mojahedin Organization of Iran (PMOI). The Iraqi statement said that the PMOI was fighting a "legitimate struggle against an unjust dictatorship", adding Iran's meddling was the biggest cause of instability in present-day Iraq. They also said the PMOI should be recognized in Iraq as "a legitimate political movement" and the rights of its members, under Iraqi and international law, fully respected. A Congressional Briefing was convened by Iran Human Rights and Democracy Caucus on May 10, 2005 to discuss these developments. I ask that the following excerpts of the witnesses' speeches, as follows, be entered into the RECORD. Furthermore, I ask that it be noted that the remarks of those witnesses connected to the US military are not to be attributed to the U.S. Department of Defense, but taken as personal observations offered by each witness.

Dr. Abdullah Rasheed Al-Jabouri, Former Governor of the Iraqi Province of Diyala: "I must emphasize that among the 2.8 million Iraqis who signed the petition of support, there are many Kurds, Turkomans, Shiites and Christians. Last June, 50,000 Iraqis attended a major gathering at Ashraf, which I addressed, and in May, 500,000 Iraqis signed a petition calling for the continued presence of the group in Iraq as a legitimate political force. The fact is that by virtue of espousing an anti-fundamentalist Islam, the Mojahedin has emerged as a major bulwark against the rise of Islamic fundamentalism in Iraq, and especially the Iranian meddling. They have developed strong ties with the local people and the many tribes in the province. The sheer presence of the Mojahedin (MEK) was providing security to the region because the people in the province have complete trust in them. It is my hope that as we and the U.S. grapple with the problem of insurgency in Iraq, the United States would realize that the Mojahedin are friend of the Iraqi people and a source stability and calm in Iraq and move to remove them from the terrorist list, which would in turn lead to the removal of the restrictions placed on them."

Lt. Colonel Thomas Cantwell: "When I moved up into northern Diyala province [in Iraq], the relationship with the Mojahedin with the local community helped me in that regard, I think because most of the local sheiks, understanding as part of the Sunni triangle, weren't exactly trusting of coalition forces but they seemed to have some level of trust with the Mojahedin, and so what I sought to get them to come in to get to speak to them and to understand what their issues were, was their security issues, their infrastructure repair issues, they lack of support issues, and to try and help them understand what our operations were doing and to ensure that they understood why we were under taking our operations. It certainly helped to have that friendly relationship that they had with the Mojahedin because it helped me to break the ice with the local sheiks which I think was important. My mission had several different aspects to it. On the one hand, we had a Geneva Convention responsibility to safeguard the Mojahedin, and this was a real possibility since there was evidence at the camp that the camp had been previously attacked by the Iranian government."

Captain Vivian Gembara: "As a soldier and a lawyer I believe it's time to change their (MEK) classification as a terrorist organization. Two years ago we could say clearly or argue that it was in all of our best interest to maintain this label, even despite Special Forces recommendations out of natural weariness. Now two years have passed and I think it's crucial that we acknowledge that the situation has changed, and we need to reassess. The potential benefits of working together definitely overshadow previous concerns or hesitations that we had. Next of course is identifying your allies, and over two years have passed now since I met with the MEK but my question is still the same and hasn't changed at all. It's basically why we can't take maximum use of the assets and potentials of this ally here?"

Dr. Kenneth Katzman: "The broader regional effects of the pro-Iranian tilt of the new Iraqi government are hard to discern. It is likely that the new Iraqi government might support Iran against international criticism of Iran's growing nuclear program. Iraq might move closer to Iranian positions on the Arab-Israeli peace process. It is also likely that the Shiite-dominated new government of Iraq will support other Shiite movements in the region, such as in Bahrain, Kuwait, and Saudi Arabia. Some commentators say Iraq's new leaders are likely to remain wary of Iran exercising substantial influence in Iraq. They note that most Iraqi Shiites generally stayed loyal to the Sunni-dominated Iraqi regime during the Iran-Iraq war. Most Iraqi Shiites appear not to want a cleric-run Islamic regime."

IN MEMORY OF MAJOR EDDIE WHITEHEAD

HON. J. D. HAYWORTH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. HAYWORTH. Mr. Speaker, on May 27, 2005 a courageous and distinguished Marine

will be laid to rest in Arlington National Cemetery. Major Eddie Whitehead, a respected Vietnam veteran who proudly served his country in the United States Marine Corps for 28 years, will be laid to rest today among other great American heroes at Arlington National Cemetery. On February 25, 2005 Major Whitehead lost his battle with cancer, and all who knew and loved him will miss him, including his wife Bonnie, son Eddie Jr., daughters MitziLynn Keegan and Christian Thijm, sister Mitzi Datres, and grandchildren Derek and Casey Jene. Let us pause to remember him and thank an American hero.

IN MEMORY OF OFFICER JAMES DANIEL JONES

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. BACA. Mr. Speaker, it is with great respect that I pay tribute today to the life of James Daniel Jones. James was a man of great integrity and character, who honorably served both his country and his community.

James passed away on May 10, 2005 at the age of 75. He was born in Minden, Louisiana, but in 1957 made his home in Barstow, California, where he resided until his passing. James married Louvern Redwell in 1953, and they had seven children, including my good friend Brian Jones.

James honorably served our country throughout his life. He was drafted into the United States Army in 1951 and served for 2 years and was honorably discharged. He went on to spend 32 years as a civil employee of the U.S. Marine Corps.

In addition to serving his country, James also served the people of his community. He volunteered at the Mojave Valley Senior Citizen Center and provided transportation for the sick and the elderly. He also was active in the lives of the youth in the community, as an East Barstow Little League coach. He also had a deep relationship with Christ, and was an active member of the Union Missionary Baptist Church.

James was preceded in death by his parents, Eli and Freelove Jones; his brother, Andrew Jones; and his three sisters, Donnie Jones, Lorean Stewart and Ella Mae Andrews.

He is survived by his beloved and dear wife of 52 years, Louvern Jones; his sister, Mary Helen Smith; his brother, Eddie Jones; and his seven children, Loretta Johnson, Shirley Sherrod, Donny Jones, Donie Elliott, Jennifer Jones-Scott, Vivian Brooks and Brian Jones. He is also survived by twelve grandchildren, two great-grandchildren, and many nieces, nephews, and other relatives and friends.

Mr. Speaker, today I am proud to pay tribute to James Jones, a man who improved the lives of those he knew. James will be missed by many in his community, but he will certainly not be forgotten. He leaves behind him a legacy of caring and compassion, of unselfish dedication to his community and his country.

TRIBUTE TO JENNY PHILLIPS

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mrs. CAPITO. Mr. Speaker, I rise today to ask my colleagues to pay tribute to a woman who has made an incredible difference in the lives of my fellow West Virginians. Jenny Phillips has served honorably as the West Virginia USDA Rural Development Director, and is retiring with a record of accomplishment that deserves our thanks and praise. Our State has many assets, as well as many needs. Jenny has a unique ability to bring people together for a common cause, to bring the resources of the Federal Government to partner with communities to solve problems and build for the future. Whether it was basic necessities such as water and sewer lines and affordable housing, or visionary projects such as high-speed internet access to bring health care, education and high-tech jobs to rural areas, Jenny delivered for West Virginia. We are taught to always leave a place better than we found it. Jenny Phillips has been the embodiment of those values in her life and career. All West Virginians and Americans thank her for her exemplary service and send our sincere best wishes for her retirement.

TRIBUTE TO MIHAN LEE

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. VAN HOLLEN. Mr. Speaker, I rise today to pay tribute to Mihan Lee, an 11th-grader who lives in my Congressional district and attends Georgetown Day School. Recently, she competed against nearly 5,400 middle and high school students nationwide in an essay contest titled ''Lincoln and a New Birth of Freedom.'' Her essay, ''A New Country, a New Century, a New Freedom'' earned her grand prize honors. The contest was held to commemorate the opening of the Abraham Lincoln Presidential Library and Museum in Springfield, Illinois. Mihan, a 17-year-old, second-generation Korean-American, read her award-winning prose during the dedication ceremony.

Although Mihan's essay was not specifically about President Lincoln, she captured his message of freedom and courage in a story about her great-grandfather, who lived in Korea under Japanese colonization.

Mr. Speaker, I applaud Mihan Lee and wish her continued success in the years ahead. I submit her essay for the RECORD.

A NEW COUNTRY, A NEW CENTURY, A NEW FREEDOM

My understanding of freedom is inextricably tied up with my understanding of language. My great-grandfather, in 1940s Korea, was arrested for putting together the first Korean dictionary, when the language had been banned by the Japanese government. My great-grandfather believed that words, the medium by which we formulate and share ideas, can bind and break the very ideas they express if the language is that of an oppressor. He fought for the freedom of his people to express ideas in their own words; in so doing, he defended their very right to have ideas.

As I prepare for all the freedoms and responsibilities of adulthood, I remember these definitions of freedom I have inherited, and strive to make ones of my own—not only as the first generation of my family born in a new country, but also as an American youth at the birth of a new century. Sitting in the hall between classes, my friends and I discuss the faults of our school's administration, the right to same-sex marriage, the justification for the Iraq War. We feel it is our right to know and evaluate our surroundings, to speak and have our ideas responded to.

I believe that freedom in the 21st century means the liberty of individuals, regardless of age, race, gender, or class, to express themselves in their own words, and to use those words to shape history. We celebrate it, and yet we never stop fighting for it. I am Korean-American, I am young, and I am free. I speak—not always articulate, not often right, but always in my own words. I speak, and I listen.

LETTER TO PRESIDENT BUSH REGARDING LUIS POSADA CARRILES

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. KUCINICH. Mr. Speaker, today 20 Representatives sent to President Bush the following letter regarding the asylum application of terrorist Luis Posada Carriles and the extradition request from Venezuela:

DEAR MR. PRESIDENT: We are writing to urge you to oppose the application for asylum by Luis Posada Carriles, and to support the request for extradition to Venezuela, where he is a fugitive from justice.

Posada, a CIA-trained Cuban exile, is one of only two prime suspects in the bombing of a Cuban civilian airliner, which killed all 73 people onboard on October 6, 1976, according to FBI investigators and declassified documents. The plane had originated in Caracas and was bound for Cuba, with a stop in Barbados. The bomb went off as the plane was leaving Barbados.

In addition to the Cuban airline bombing, Posada is implicated in an act of terrorism that took place on American soil, here in Washington, DC. On September 21, 1976 former Chilean government minister Orlando Letelier and his American associate, Ronni Moffit, were killed by a car bomb near Sheridon Circle. The bombing was one of the worst acts of foreign terrorism on American soil to that date.

Carter Cornick, a retired counterterrorism specialist for the FBI who worked on the Letelier case, said in an interview that both the airline bombing and the Letelier bombing were planned at a June 1976 meeting in Santo Domingo attended by Posada in addition to others. Mr. Cornick said that Posada was involved ''up to his eyeballs'' in planning the attacks. At the time of the bombings, Venezuelan police found maps and other evidence in Posada's Venezuelan home that tied him to the terrorist acts. Furthermore, a recently declassified 1976 F.B.I. document confirms Posada's presence at two meetings in the Anauco Hilton Hotel in Caracas where the airline bombing was planned.

Posada, a dual citizen of Venezuela and Cuba, and a former Venezuelan intelligence agent, was jailed in Venezuela for the airline bombing, but then escaped from prison in 1985 while awaiting trial.

After escaping prison, Posada continued to terrorize civilians, and even boast publicly about his crimes. In a 1998 interview with the New York Times, he claimed responsibility for organizing a series of bombings aimed at Cuban hotels, department stores and other civilian targets during the summer of 1997. The bombings killed an Italian tourist and injured 11 other human beings.

Perhaps realizing he had not helped himself or his cause, Posada later retracted his statements.

In November 2000, Posada was arrested in Panama for preparing a bomb to explode in the University of Panama's Conference Hall, where Fidel Castro was going to deliver a speech. Hundreds of people were expected to attend this event, and had Cuban intelligence not uncovered the plot beforehand, there would have been massive civilian casualties. Posada was convicted in a Panamanian court only to be pardoned by Panamanian President Mireya Moscoso just days before she left office in August 2004.

Moscoso's successor, Martin Torrijos, criticized the pardon, aptly noting, ''For me, there are not two classes of terrorism, one that is condemned and another that is pardoned. ''

Similarly, in 1989, when the Justice Department was considering the asylum request of Posada's fellow Miami militant, and suspected co-conspirator in the Cubana bombing, Orlando Bosch, then-Associate U.S. Attorney General Joe D. Whitley said, ''The United States cannot tolerate the inherent inhumanity of terrorism as a way of settling disputes. Appeasement of those who would use force will only breed more terrorists. We must look on terrorism as a universal evil, even if it is directed toward those with whom we have no political sympathy.''

Aside from the United States' foreign policy regarding Cuba, our stated, official national security policy against terrorism is unequivocally clear.

On September 19, 2001, Mr. President, you eloquently reaffirmed our national policy against terrorism: ''Anybody who harbors a terrorist, encourages terrorism, will be held accountable. I would strongly urge any nation in the world to reject terrorism, expel terrorists. ''

On August 26th, 2003 you said, ''If you harbor a terrorist, if you support a terrorist, if you feed a terrorist, you are just as guilty as the terrorists.'' The National Security Strategy of the United States, released in 2002 stated, ''No cause justifies terror. The United States will make no concessions to terrorist demands and strike no deals with them. We make no distinction between terrorists and those who knowingly harbor or provide aid to them.''

Not only must the United States reject the asylum application of Luis Posada Carriles, a known international terrorist, but Posada should also be returned to Venezuela for a proper adjudication of the case against him. Posada was a dual citizen of Venezuela and Cuba, he plotted terrorist crimes from Venezuela, including the bombing of the civilian airline flight that had originated in Venezuela, and he escaped from a Venezuelan prison. As a sovereign nation, Venezuela has the right to pursue justice in this case.

Posada's lawyer Eduardo Soto has objected to his client's return to Venezuela, arguing that he could be tortured there. To satisfy such concerns, the United States should abide by its standard policy on these matters, which according to William Haynes II, general counsel of the Defense Department, ''is to obtain specific assurances from the receiving country that it will not torture the individual being transferred to that country.'' If this policy is applied in the transferring of prisoners to Syria, Morocco, Egypt and Jordan, all countries whose abusive practices have been documented and condemned by the State Department's annual human rights report, then the United States must surely apply this policy to Venezuela, a nation with a Constitution that specifically prohibits torture and provides for the prosecution of officials who instigate or tolerate torture.

Many innocent victims who happened to be Cuban died at the hands of Posada, in a crime similar to that which killed innocent American victims on September 11, 2001. It is not only inconceivable to imagine the possibility of granting this terrorist asylum, but also of denying justice to all of the victims of his crimes. Such actions would go against everything that your Administration has claimed to stand for in the ''War on Terrorism.'' It is our hope that for the sake of all the families of terror casualties in the United States and around the world that Luis Posada Carriles is not granted asylum in the United States, and that he is rightfully extradited to Venezuela where he will finally face justice.

Sincerely,

Dennis J. Kucinich, Raul M. Grijalva, José E. Serrano, Barbara Lee, Cynthia McKinney, Maurice Hinchey, John W. Olver, Bobby L. Rush, James P. McGovern, Edolphus Towns, Donald M. Payne, Sam Farr, Lane Evans, Bennie G. Thompson, Carolyn B. Maloney, Ed Pastor, Tammy Baldwin, Sheila Jackson Lee, Lynn Woolsey, Maxine Waters.

IN RECOGNITION OF GEN. PETER PACE, CHAIRMAN OF THE JOINT CHIEFS OF STAFF

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. ROTHMAN. Mr. Speaker, I rise today with great pride in honoring an extraordinary individual, Marine Corps General Peter Pace, who was recently nominated to serve as the Chairman of the Joint Chiefs of Staff of the United States Armed Forces. General Pace was raised in Teaneck, New Jersey, one of the largest municipalities in the Congressional District that I am privileged to represent. General Pace has risen to become the first Marine to lead the Joint Chiefs of Staff, an honor that he has earned through decades of hard work and determination. His story is a source of inspiration to every resident of the Garden State.

The son of an Italian immigrant, Peter Pace was born in Brooklyn, New York, and moved to Teaneck with his family the following year. After settling down in a home on Hillside Avenue, Peter quickly became involved in local youth athletics. While attending Teaneck High School, Peter worked hard and achieved academic excellence, which resulted in his acceptance to the United States Naval Academy in 1963.

Upon graduation from Annapolis and successful completion of The Basic School in Quantico, VA, Peter Pace was assigned to the 2nd Battalion, 5th Marines, 1st Marine Division in the Republic of Vietnam and served as a Rifle Platoon Leader. After returning from his combat duty in Vietnam, Peter served in a number of different staff and command positions, including Head of the Infantry Writer Unit at the Marine Corps Institute, Security Detachment Commander at Camp David, White House Social Aide, and Leader of the Special Ceremonial Platoon.

In April of 1971, Peter was promoted to the rank of Captain, and was later assigned to a Security Detachment in Thailand. In the late 1970's, then-Captain Peter Pace held the position of Operations Officer and Division Staff Secretary at Camp Pendleton in Southern California, where he later served as Commanding Officer of the 2n Battalion, First Marines Division following his promotion to the rank of Major in June of 1980. After heading up a Marine Corps Recruitment Station in Buffalo, NY and attending the National War College, Major Pace was promoted to the rank of Colonel in October of 1988, and advanced to the rank of Brigadier General in April of 1992. He was then appointed as President of the Marine Corps University before assuming various other commands. In recent years, as Vice-chairman of the Joint Chiefs of Staff, General Pace has been instrumental in shaping the Pentagon's efforts in the war on terrorism.

Mr. Speaker, I ask my distinguished colleagues to join me in giving our heartiest congratulations to General Peter Pace, the new Chairman of the Joint Chiefs of Staff of the United States Armed Forces, and a proud example of the Teaneck Public School System. His remarkable achievements and tireless service to his country, the United States Marine Corps, and his fellow servicemen and women clearly are a tremendous source of pride for all Americans and especially all his friends and family from New Jersey.

PERSONAL EXPLANATION

HON. J. GRESHAM BARRETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. BARRETT of South Carolina. Mr. Speaker, due to obligations in South Carolina, I unfortunately missed recorded votes on the House floor on Monday, May 16, 2005.

I ask that the RECORD reflect that had I been able to vote that day, I would have voted "yes" on rollcall vote No. 171 (Motion to Suspend the Rules and Pass H.R. 627—Linda White-Epps Post Office), "yes" on rollcall vote No. 172 (Motion to Suspend the Rules and Pass H. Res. 266—Peace Officers Memorial Day), and "yes" on rollcall vote No. 173 (Motion to Suspend the Rules and Pass H.R. 2107—National Law Enforcement Officers Memorial Maintenance Fund).

IN HONOR OF ALICE YARISH

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Alice Yarish of Marin County, California, who died at the age of 96 on May 9, 2005. Alice was a fixture of the Marin community for many years, known as much for her outspoken and occasionally flamboyant personal style as for her crusading journalism.

Born in Nevada and raised in Redondo Beach, CA, Alice's first foray into journalism was a stint as the high school correspondent for the city's South Bay Breeze. She graduated from the University of Southern California during the depression and, unable to find a job, enrolled in law school, continuing a family tradition. She could not afford to complete the program and supported herself as a social worker for the next five years.

In 1942 Alice married Peter Yarish who was in the Air Force. A few years later the couple moved to Hamilton Air Force Base in Marin where Alice lived the life of a military wife for several years while raising four children. In 1952, when her children were school-age, she was able to return to journalism at the age of 43. First a reporter for the San Rafael Independent Journal, she later worked for the Santa Rosa Press Democrat and the Novato Advance before establishing the Marin News Bureau for the San Francisco Examiner. In 1970 she became the assistant editor of the Pacific Sun where she gained a reputation for dry wit, investigative coverage of local government, social commentary on the hippie scene, and a strong passion for social justice.

Prison reform became one of Alice's special crusades after she met well-known inmate George Jackson who was later killed in an attempted outbreak. ''Jackson opened my eyes and filled me with information which I had not known before,'' she wrote. ''I was shocked by what I learned . . . prisons tend to be breeding grounds of crime, generators of bitterness, destructive of men's souls. They are a failure.''

A 1972 series on abuses in the Marin County Drug Abuse Bureau led to its abolition and replacement with an agency which operates under review by elected officials and city managers. This series led to an Award for ''Best Story in a Bay Area Paper'' from the San Francisco Press Club. Alice's enjoyment of her work and zest for life were contagious, whether leading her home-town parade in her newly purchased red convertible at the age of 77 or serving actively with community agencies such as the Adult Criminal Justice Commission, the Marin Association for Mental Health, and others.

Alice is survived by her four sons, Peter, Tom, Anthony, and Robin Ell, and by seven grandchildren and three great-grandchildren.

Mr. Speaker, as a self-described ''outspoken broad,'' Alice championed those who couldn't speak out for themselves and inspired others to do likewise. We will miss her fearless voice, her compassion, and most of all her undaunted spirit.

IN HONOR OF DR. KAREN HERZOG

HON. KENNY C. HULSHOF

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. HULSHOF. Mr. Speaker, on May 20th, East Central College in Union, Missouri will watch with pride as young men and women receive their diploma and enter the working world. Commencement is a joyous time filled with celebrations and happiness, but also sadness and trepidation as students begin their adult lives and careers in new cities, often leaving friends behind.

East Central College's upcoming graduation will be no different. There will, however, be one major difference from previous graduations—it will mark the last time that Dr. Karen Herzog presides over her students in her official capacity as the college's President.

As such, I rise today to honor Dr. Karen Herzog for her distinguished academic career and commitment to higher education. Dr. Herzog grew up in Carthage, Missouri and studied at Ozark Christian College in nearby Joplin where she earned a B.A. in literature. She subsequently earned a master's degree in American literature from Kansas State University and later a Ph.D. in higher education policy from the University of Kansas.

Dr. Herzog started her academic career at the Metropolitan Community College District system located in the greater Kansas City area where she taught English. After fifteen years, Dr. Herzog moved into an administrative role at the college. She rose through the ranks and eventually assumed the position of Associate Vice Chancellor of Education. In 1999, East Central College offered Dr. Herzog the Presidency, which she accepted.

For the past six years, Dr. Herzog has made an indelible mark on the students of East Central College and residents of Franklin County. She has chaired the Franklin County Economic Development Council and been a member of the Franklin County Family and Children Mental Health Board, the Washington 353 Redevelopment Corporation and the Union Rotary Club. While at East Central, Dr. Herzog established a centralized Learning Center for students, earned full ten-year accreditation from the North Central Association of Colleges and Schools and attained record enrollment levels. Dr. Herzog has clearly had a positive impact on the community, on East Central College, and most importantly, on the students that have received a quality education as a result of her efforts.

It has been a pleasure working with Dr. Herzog and I wish her continued success in her future endeavors. Her dedication to Missouri's students is exemplary and deserving of commendation. For these reasons, it is my pleasure to rise and share her accomplishments with my colleagues.

TRIBUTE TO ELEANOR McGOVERN

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. McGOVERN. Mr. Speaker, when George McGovern ran for president in 1972, his wife Eleanor inspired the slogan, ''Put another Eleanor in the White House.'' Eleanor McGovern, like Eleanor Roosevelt, has a deep love for this country and has dedicated much of her life to causes and campaigns that would make this country—and the world—a better place.

I've known Eleanor for many years and have admired her intellect and compassion. She was an early advocate for early childhood education and, like her husband, has been a voice of peace and tolerance.

Mr. Speaker, I would like to insert into the RECORD a recent article about Eleanor McGovern which appeared in the Sioux Falls Argus Leader on May 15th. I ask all my fellow colleagues to join me in paying tribute to this remarkable woman.

[From the Sioux Falls Argos Leader, May 15, 2005]

A DEVOTED LIFE

(By Jill Callison)

MITCHELL.—ELEANOR MCGOVERN ENTERED MARRIAGE HOPING ONLY THAT HER HUSBAND, GEORGE, WOULD RETURN FROM WAR UNSCATHED.

If he did come back, she expected to be the wife of a history teacher.

Instead, she found herself spending more than 50 years as a politician's wife. But she also carved out a place for herself, becoming more than ''the wife of.''

Indeed, George McGovern's career—which includes 12 years as a U.S. senator, Democratic presidential candidate and ambassador to United Nations agencies—may not have soared as high as it did without his wife's support, some say.

''He may not have had the political career he has had without her,'' says Judy Harrington of Hill City, who served as George McGovern's state representative from 1973 to 1980.

''I think her support, her insights, ideas and gentle corrections have helped him all along his path of public service.''

The senator himself describes his wife of 61 years as his most helpful critic and most trusted adviser.

On June 23, ground will be broken for a new library and center for public service at Dakota Wesleyan University in Mitchell. The building will carry two names: George and Eleanor McGovern.

''Eleanor's done a lot of great things, and we're proud of her at Dakota Wesleyan,'' says Greg Christie, vice president for institutional advancement.

But a public life can come at a cost.

Eleanor McGovern, now 83 and growing frail, prefers to shun the spotlight that once shone on her family, sometimes with a scorching heat.

''George still travels a lot, but I don't go with him very often,'' she says, sitting in the living room of their Mitchell ranch-style house. ''Going from city to city and lecture to lecture isn't my idea of fun. I like to go to one place and stay for a while.''

Last week, the McGoverns took off on a three-day trip to reach their summer home in southwestern Montana, in the shadow of the Bitterroot Mountains.

The trip takes three days, Eleanor McGovern says, to make it easier on the pets, an 8-year-old Newfoundland named Ursa and a 1-year-old tortoiseshell cat found on the highway. Its name, she admits with a trace of embarrassment, is Kittycat.

Ursa, they say, is George's dog. But the nurturing Newfie proved her loyalty about three years ago. Eleanor McGovern had fallen, breaking her leg in two places. She dragged herself to her bedroom but was unable to reach the phone. Ursa curled herself around the prone woman for 24 hours, until help arrived.

Yet, although she's often alone and sometimes lonely, Eleanor continues to support her husband's public service, no matter how often he must leave.

''She started off carrying that load when he was gone in the war after they were married,'' says Paul Jensen of Rapid City, a longtime friend.

''But today I am more aware of the juxtapositions of love and deprivation in my childhood, of freedom and responsibility in my youth, and of tenderness and chaos in my maturing years. Without those myriad strands it would have been more difficult, I know, to accept the different drives and natures of five children, to support a gentle, questing man as he moved from teaching to the ministry to politics, and to keep something in reserve for myself.'' From ''Uphill:

A Personal Story'' by Eleanor McGovern with Mary Finch Hoyt.

Eleanor McGovern began that uphill climb Nov. 25, 1921, when she arrived 30 minutes after the birth of her twin, Ila.

Her parents, Earl and Marian Stegeberg, farmed near Woonsocket. It was a hard life, made even more difficult by the early death of her mother when the twins were 11 and their sister, Phyllis, was 4.

Her father withdrew into a sadness that truly never broke until the birth of his first grandchild, the McGoverns' oldest daughter, Ann, in 1945.

Eleanor and Ila became the family housekeepers.

''I have a memory of trying to bake a cake,'' Eleanor McGovern says. ''I had a recipe, but I came to an ingredient I didn't know—baking powder. So I left it out. That was a very flat cake.''

In high school, the twins stayed in Woonsocket, doing housekeeping in exchange for room and board. They took turns going home weekends.

Living in town allowed them to take part in activities such as debate. That was how they first encountered a Mitchell teenager who already had made a name for himself. George McGovern and his partner debated the Stegeberg twins—and lost.

''Having high admiration for George, we adore the woman who beat him,'' says Harrington, McGovern's former state representative.

But the two didn't really meet until they were freshman at DWU. In ''Uphill,'' Eleanor McGovern talks about how he asked her on a first date.

Now she admits she had advance warning. Eleanor worked in the dean's office, Ila down the hall. Ila stuck her head in the door to tell her sister a request for a date was coming.

''And don't you dare refuse him,'' Ila hissed at her twin.

''It never occurred to me he would ask me for a date,'' Eleanor McGovern says. ''He was a big man on campus.''

''I'd say within a year of that our first date I was pretty sure Eleanor was the one,'' George McGovern says.

''It was a dreamy spring. I had never known anything like it before. My only concern was that George might not care so much as I. Then on a beautiful clear afternoon he urged me to skip class with him and as we strolled slowly down the street south of campus, he reached down and took my hand. I had my answer. A clasping of hands meant everything then.''

Their campus life was short. Eleanor McGovern quit her business courses at DWU. Her sister left for Rochester, Minn., and nurse's training, and Eleanor gave financial support.

The world had changed, too. After Pearl Harbor was bombed on Dec. 7, 1941, George McGovern volunteered for service in the Army Air Corps. He was called up in 1943.

The couple considered delaying marriage until after he returned from combat but decided not to wait. On Halloween Day 1943, they were married in the Methodist church in Woonsocket.

''My father liked George very much, but he didn't think we should get married, and he said he would not take part in the wedding,'' Eleanor McGovern says. ''But he came that day and gave me away.''

The newlyweds took a train to Muskogee, Okla., the next day, Eleanor sometimes sitting on their suitcase in the aisle.

She lived alone in a rented bedroom while her husband returned to the base. They saw each other twice a week.

She followed him to Kansas, Texas, Nebraska and Idaho, before returning home to await the birth of their first baby.

''I had really wanted to get pregnant,'' she says. ''George was going overseas, and I wanted to have a baby.''

He would not see Ann until she was 5 months old.

After the war, he completed his degree at DWU. The son of a Wesleyan Methodist pastor thought he, too, would follow that path.

As a student pastor's wife, Eleanor McGovern had her first taste of being in the public eye.

''A lot is expected of a minister's wife,'' she says. ''And with two children very small (daughter Susan had arrived a year after Ann), I wasn't ready.''

In any case, it didn't last long. George McGovern left seminary, earning a doctorate in history. He taught at DWU before leaving to help reinvigorate the South Dakota Democratic Party.

Three more children, Teresa, Steven and Mary, arrived.

And in 1955, Eleanor McGovern officially became a politician's wife when her husband ran for the U.S. House of Representatives. ''I was happy when George went into politics,'' she says. ''People in my family cared about what was happening in the country.''

The first campaign was the toughest, she says. Then, they fell into a similar rhythm.

She began the last campaign, in 1980, with typical humor. As a temporary home in Mitchell, staffers rented the McGoverns an aging apartment, with linoleum floors, ancient cupboards and poor lighting.

''When George and Eleanor arrived for the first time to see it—looking ever so much like an apartment they had when they first married—Eleanor looked around, smiled and said, 'Well, George, it looks like we're starting over,' '' Harrington says. ''They didn't seem to mind at all.''

While he served in Congress, she pursued her own interests, primarily children and families and the choices confronting women as the stay-at-home '50s transformed into the turbulent '60s.

Eleanor McGovern spoke out for adequate day care. ''She was ahead of her time in accepting that as appropriate,'' says Berniece Mayer of Sioux Falls, a former McGovern staffer.

Until the demands of her husband's political career—particularly his bid for the presidency in 1972—required her to travel, Eleanor McGovern served as, often, a single parent.

''I'm sure Eleanor's had periods where she wishes she'd never been married to a politician, somebody running for Congress, running for the Senate, running for the presidency, running, running, running,'' George McGovern acknowledges.

''There was one period when I was representing South Dakota in the House of Representatives when I came out here 25 weekends in a row, and that plays havoc with your wife and your kids,'' he says.

''I was determined to help with George's career, not only by taking responsibility for the family, but by contributing ideas. In fact, I never considered it 'George's' career—it was 'ours.' ''

Sometimes Eleanor McGovern did think ''Stop!,'' she says, but ''I never said it. It meant so much to him. He loved being a politician, and he accomplished a lot.''

But if she could change anything, she would not have moved the children so often. ''If I had to do it over again, I'd stay with them in South Dakota,'' she says.

The McGoverns have 10 grandchildren and one great-grandchild. A second great-grandchild is on the way.

Their children are scattered from Montana to England. There are only four now, since their middle child, Terry, died in 1994, after years struggling with alcoholism.

The sadness from her daughter's death will never leave Eleanor McGovern.

''There are pictures of her in the bedroom,'' she says. ''When I go by, I always find myself softly reaching out and touching her picture.''

Her husband later wrote a book about their daughter, ''Terry.'' It was therapy for him, she says, but Eleanor McGovern has chosen to speak only rarely about her daughter's addictions.

It's OK that they have differences of opinions, he says.

''We don't worry about the fact that sometimes there could be a little tension and differences of opinion and irritation,'' he says.

''We just take that as a part of life. You can't expect complete harmony in a marriage. You have to give the other person a little freedom, too, to move to the things that they're interested in.''

''Even today I have fleeting pangs of anxiety when I leave where I am to go to someplace else. I can describe it only as a vague sense of loss of place.''

So he travels the country, and she generally stays home.

''She's had lots of opportunities in her lifetime to be in the public eye, and she goes out of her way to stay out,'' Christy says. ''Some time ago she decided to let George do that.''

The death of her sister, Ila, in 1996 also was a blow. ''It left quite a void in my life,'' Eleanor says.

Books can't fill that gap, but they often fill her days. Her husband calls her the best-read woman he knows. Eight or 10 magazines come to the house every week; she reads them all.

She loves birds, particularly meadowlarks. Mayer remembers taking Eleanor McGovern out in the prairie to hear their sweet sound. When time wouldn't permit, a local radio announcer would tape the bird calls for her.

It would take her home, even in a Washington, D.C., suburb.

''Many times I ached for Woonsocket and Mitchell, for cottonwoods and elms, for schools, shops, markets, doctors' offices, more often than not sprinkled with dear friends or relatives, all within walking distance.''

HONORING TOM GREEN FOR HIS SERVICE TO TENNESSEE

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. COOPER. Mr. Speaker, I rise today to pay tribute to Mr. Tom Green. The humorist Will Rogers once said that the secret of his success was that he never met a man he didn't like. The same can be said of Tom Green. He makes friends with everyone, everyday, everywhere. He is the ultimate people person, always asking—and, much more important, caring—about you, your family, your friends, and remembering the details perfectly for decades. I wish I had a fraction of his talent.

Tom is well known back home for his wonderful family, for his continuing and tireless efforts benefiting the Natchez Trace Parkway, as well as for his dedication and service to Nashvillians during his long business career and, more recently, as a key member of my district staff.

The Natchez Trace is the pioneer roadway that connected Nashville with the lower Mississippi River at Natchez. In modern times

the Trace fell into disuse and was nearly lost to history. In 1934, Congress ordered a survey of the old wagon road, and, in 1937, provided initial funding for construction of what would eventually become the 444-mile-long Natchez Trace Parkway running through rural Mississippi, Alabama and Tennessee. Today, the Parkway is one of the most visited national parks and serves as a unique thoroughfare, allowing us to ride in comfort along an ancient trail through some of the most beautiful scenery in our country.

Tom has helped the Natchez Trace Parkway for decades, from the days of legendary Congressmen Jamie Whitten of Mississippi and Tom Bevill of Alabama. He worked hard to secure federal funding to complete and beautify the Parkway. Everyone associated with the Parkway knows that Tom is a great organizer, motivator, and promoter of the Trace. Just stop and eat a ham biscuit at the famous Loveless Café at the head of the Trace and you'll hear Tom's name mentioned frequently and with deep respect. Without Tom's efforts, the Natchez Trace Parkway would not be the link between the past and future of our region that it is today. Everyone in the Southeast United States is indebted to Tom for his vision. He helped save the Trace before it was too late.

His tireless work on the Natchez Trace Parkway is just one of his important contributions. Tom is a true servant of his community. Born to remarkable parents in Lewisburg, Tennessee, he served in WWII and came home to graduate from the University of Tennessee, manage the local co-op and open a small business. He was so popular he was elected Mayor of Lewisburg. Later moving to Nashville, he helped many Middle Tennessee businesses expand, thanks to his keen credit decisions while heading up industrial development projects for Third National Bank. Those years were the golden age of Third National under the leadership of the legendary Sam Fleming, but it was men like Tom Green that brought the loans to the bank. Money is a commodity; customer relationships are more precious than gold.

Tom went on to help all Nashvillians when he spent more than a decade as the associate general manager of the Nashville Electric Service, the local electric utility. Just one of the many people Tom helped was an African-American barber in a poor part of town. The barber would call Tom to tell him about an upstanding citizen who just couldn't pay their electric bill that month, but would pay when they found work. He asked Tom to keep their lights on and Tom did just that. As a former banker, Tom knew how to make character loans, whom to trust and whom not to. Despite being a monopoly, NES kept the goodwill of its hardworking customers and Tom made even more lifelong friends at a time when most white Nashvillians did not care much about goodwill in the black community. The barber is still in business in the same location and I have visited his barbershop with Tom. The barber's name is Vernon Winfrey, and he is the father of Oprah Winfrey. Tom bent over backwards to help him before he had any realistic hope of fame or fortune. That's the kind of guy Tom is.

Married for 53 years to Pat Green, the Greens are the parents of four outstanding grown men and grandparents of eleven children. Tom is an active member of the Nashville Downtown Rotary Club and Christ the King Catholic Church and finds time to volunteer at the Nashville's ''Room in the Inn'' program for the homeless and at St. Thomas Hospital. Pat is a renowned local teacher who is directly descended from Abraham Lincoln's first-grade school teacher. Needless to say, the Green family is well educated.

Tom's generous spirit and joyful approach to life immediately come to mind when anyone thinks of him. No matter how busy his day may be, Tom always has a smile, an encouraging word and a couple of minutes just to talk . . . sometimes more than a couple of minutes. He'll pick up the conversation just where you left it . . . the day before, a week or a month ago. He always knows the news and has lots of tips about everyone's background, interconnections, and exactly how to approach everyone. His mind is better than a computer database. There's never been anyone like him.

Of course, I am the lucky one. Tom Green has been a key part of my office staff for the past several years. No one could ask for a more positive, uplifting presence in the office, or a better person to represent you out in the community. Not only does he know everyone, he also has great ideas. For example, last year Tom Green persuaded Vernon Winfrey to make available Oprah Winfrey Scholarships to Nashville Tech Community College. Now all future generations will benefit from an old interracial friendship, formed on the basis of taking a business risk to keep the lights on for decent, hardworking people who were temporarily down on their luck.

I am truly fortunate and want to take this moment to thank Tom for bringing his integrity, his energy and his ever-present sense of humor to my Congressional team. He can outwork a dozen people half his age. I want to take this moment to publicly offer my thanks, and the thanks of everyone in the 5th Congressional District of Tennessee, for Tom Green's extraordinary service to our community, our state and our country.

SUPPORTING REACH OUT AND READ PROGRAM

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mrs. CAPITO. Mr. Speaker, today I rise in support of the Reach Out and Read program. The Reach Out and Read Program is a program that promotes early literacy by making reading a standard part of pediatric primary care by encouraging doctors and nurses to advise parents about the importance of reading to children. Reach Out and Read programs are located in over 2,000 hospitals and health centers around the country. Annually, more than two million children participate in Reach Out and Read. My district is proud to have 14 Reach Out and Read programs that provide over 15,000 books to nearly 11,000 West Virginia children annually. I have participated three times in Reach Out and Read Programs in Kanawha and Roane Counties in my district.

By building on the unique relationship between parents and medical providers, Reach Out and Read helps families and communities encourage early literacy skills so children enter school prepared for success in reading.

President Bush included Reach Out and Read in his fiscal year 2006 budget request, continuing a multi-year effort to support this vital reading program. Reach Out and Read has a strong track record of raising non-federal dollars and is capable of more than double the impact of its 2006 appropriation. In January Reach Out and Read undertook a major 2-year initiative to increase the number of children reached by 50 percent through mid-2007. This bold step will greatly increase the number of West Virginia children who grow up in a household where early reading is encouraged.

Reach Out and Read assists families and communities in encouraging early literacy skills so children enter school prepared for success in reading. The continued support of this program is critical to the success of the Reach Out and Read program.

TRIBUTE TO CHUCK AND SHELBY OBERSHAW

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. BACA. Mr. Speaker, I rise to pay tribute to two outstanding leaders in my community who are to receive the Golden Baton Award from the San Bernardino Symphony Guild in recognition of their proactive role in fostering the culture of music in the Inland Empire. Today, I join family and friends in honoring Chuck and Shelby Obershaw for their remarkable achievements and express enormous pride in this recognition that has been afforded to them.

Chuck Obershaw was raised in the Inland Empire where he devoted himself to his family, friends and community. He selflessly served as a para-glider trooper in the 187th regiment of the 11th Airborne Division before returning to San Bernardino in the 1940s.

Chuck's accomplishments are as remarkable as they are diverse. He has served as President of the San Bernardino Area Chamber of Commerce, the San Bernardino Motor Car Dealers, the Air Force Association, and the Norton Air Force Base Chapter. In these capacities, he has been an integral contributor to the management and administration of community affairs and worked tirelessly for a better way of life for all of San Bernardino's residents.

Shelby Obershaw also proved the importance of serving your community. After moving to San Bernardino in 1959, she dedicated all her energy to shaping the minds of the future leaders of tomorrow as a dedicated teacher in various area high schools.

Her list of accolades is no less illustrious. They include election to the San Bernardino City Unified School District Board of Education, serving as President for 2 years, Director of the San Bernardino Chamber of Commerce, and member of the San Bernardino Chapter of the National Assistance League. She has also received the California PTA Honorary Service Award and the Citizen Achievement Award from the League of Women Voters.

Throughout their lives, Chuck and Shelby Obershaw have exhibited kindness, love, humility, and a deep resolve to ameliorate all aspects of community life, so it is only appropriate that they receive the Golden Baton Award.

Mr. Speaker, I am proud to recognize Chuck and Shelby Obershaw and express my sincere admiration that they have received this wonderful and well-deserved honor.

RECOGNITION OF FRIEDREICH'S ATAXIA AWARENESS DAY

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. BOEHNER. Mr. Speaker, I rise today in support of Friedreich's Ataxia Awareness Day, which is recognized each year on the third Saturday in May.

Friedreich's ataxia is a life-shortening neurological disorder usually diagnosed in childhood, causing weakness and loss of coordination in the arms and legs; impairment of vision, hearing and speech; scoliosis, diabetes; and a life-threatening heart condition. Most patients need a wheelchair full-time by their twenties. Life expectancy is reduced to early adulthood. There is currently no effective treatment or cure for Friedreich's ataxia. Sadly, I have a young constituent who suffers from this rare disease, Evan Luebbe. Evan and his family are working to bring awareness to this disease in my district. I am proud of the strength and courage he exemplifies as he battles this disease.

Although there is no effective treatment or cure available, Friedreich's ataxia patients and families have more and more reason for real hope. An extraordinary explosion of research insights has followed the identification of the Friedreich's ataxia gene in 1996. Since that discovery, research scientists have learned a great deal about the disorder. We now know what defects in the gene cause the disease, what protein the gene is supposed to produce, what that protein is supposed to accomplish, and why a shortage of the protein results in the cell death that leads to the disease symptoms. Investigators are increasingly optimistic that they are drawing closer to understanding more fully the causes of Friedreich's ataxia and to developing effective treatments. In fact, they have recently declared that, ''in Friedreich's ataxia, we have entered the treatment era.''

At the National Institutes of Health and around the world, clinical trials for Friedreich's ataxia are being conducted on drugs that hold real promise. The growing cooperation among organizations supporting the research, and the multidisciplinary efforts of thousands of scientists and health care professionals, provide powerful evidence of the determination to conquer Friedreich's ataxia.

On the third Saturday of May, events will be held across our country, including one in West Chester, Ohio, to increase public awareness of Friedreich's ataxia and to raise funds to support the research that promises treatments for this disease. I applaud the Friedreich's Ataxia Research Alliance (FARA) for its contributions to these efforts and ask my colleagues to join me in recognizing May 21, 2005, as Friedreich's Ataxia Awareness Day to show our concern for all those families affected by this disorder and to express our support and encouragement for their efforts to achieve treatments and a cure.

STATEMENT INTRODUCING REPEAL OF SELECTIVE SERVICE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. PAUL. Mr. Speaker, I am today introducing legislation to repeal the Selective Service Act and related parts of the United States Code. The Department of Defense, in response to calls to reinstate the draft, has confirmed that conscription serves no military need.

Secretary of Defense Donald Rumsfeld is on record citing the ''notable disadvantages'' of a military draft, adding, ''. . . there is not a draft. . . . There will not be a draft.''

This is only the most recent confirmation that the draft, and thus the Selective Service system, serves no military purpose.

Obviously, if there is no military need for the draft, then there is no need for Selective Service registration. Furthermore, Mr. Speaker, Selective Service registration is an outdated and outmoded system, which has been made obsolete by technological advances.

In fact, in 1993, the Department of Defense issued a report stating that registration could be stopped ''with no effect on military mobilization and no measurable effect on the time it would take to mobilize, and no measurable effect on military recruitment.'' Yet the American taxpayer has been forced to spend over $500 million dollars on an outdated system ''with no measurable effect on military mobilization!''

Shutting down Selective Service will give taxpayers a break without adversely affecting military efforts. Shutting down Selective Service will also end a program that violates the very principals of individual liberty our nation was founded upon. The moral case against the draft was eloquently expressed by former President Ronald Regan in the publication Human Events in 1979: ''. . . it [conscription] rests on the assumption that your kids belong to the state. If we buy that assumption then it is for the state—not for parents, the community, the religious institutions or teachers—to decide who shall have what values and who shall do what work, when, where and how in our society. That assumption isn't a new one. The Nazis thought it was a great idea.''

I hope all my colleagues join me in working to shut down this un-American relic of a bygone era and help realize the financial savings and the gains to individual liberties that can be achieved by ending Selective Service registration.

SUPPORTING THE GOALS AND IDEALS OF PEACE OFFICER MEMORIAL DAY

SPEECH OF

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 6, 2005

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, this week marks National Police Week, with May 15th designated as Peace Officers' Memorial Day. It's a week where we pay tribute to our nation's law enforcement officers. In recognition of this event, I would like acknowledge the efforts of our federal, state and local law enforcement. Without their courage, commitment, and ability to meet the many challenges, our lives as Americans would be very different.

Simply put, law enforcement officers risk their lives so that others are protected. Every day these brave men and women go to work knowing there is a possibility they may not come home.

Last year, 153 police officers were killed in the line of duty. That is 153 fathers, mothers, brothers, sisters, daughters, and sons who weren't able to go home to their families at the end of the workday.

The Dallas Police Department has lost a total of 75 police officers:

C.O. Brewer, William H. Riddell, William McDuff, Leslie N Patrick, T.A. Tedford, W. Roy Thornton, Leroy Wood, Johnnie E. Gibson, John R. Crain, Charles S. Swinney, Dexter Clayton Phillips, Clarence Marshall Isbell, Alex W. Tedford, Sam Griffin Lanford, Jesse Emmett Griffin, Luke J. Bell, Ernest E. Leonard, Jr., John W. Dieken, John R. Roberts, Ralph Wendell Hoyt, Victor Leon Morris, Ernest Elmer Bates, Jr., Preston D. Hale, William Edward Stafford, Johnny W. Sides, Leonard C. Mullenax, Ray Allen Underwood, J.D. Tippit, Frank Weldon Bennett, James Douglas Stewart, Floyd A. Knight, Robert H. Shipp, Johnnie T. Hartwell, Allen Perry Camp, Carl Jackson Cooke, Howard Kenton Hicks, Joe Jones, Levy McQuietor, Jr., Milton E. Whatley, Donald P. Tucker, Sr., Leslie G. Lane, Jr., Alvin Duane Hallum, Alvin E. Moore, Robert W. Wood, John T. McCarthy, Charles J. ''Chip'' Maltese, Jr., John R. Pasco, Carl J. Norris, Ronald D. Baker, Robert L. Cormier, James C. Taylor, Thomas Lee Harris, Gary Reeves Blair, James Allen Joe, John Glenn Chase, Gary Don McCarthy, Walter Leon Williams, Lawrence R. Cadena, Sr., Lisa L. Sandel, Mark L. Fleming, Michael R. Okelberry, Thomas G. Burchfield, Sunny Ma Lov, Lawrence David Bromley, Harold Lee Hammons, Billy W. Daughterty, John Paul Jones, Jr., Richard A. Lawrence, David R. Galvan, Thomas D. Bond, Henry Allen Brown, Harold F. Baird, Jr., Donald F. Flusche, Jr., Christopher K. James, and Patrick Lee Metzler.

Mr. Speaker, the risk encountered by law enforcement officers serving in communities throughout this country is enormous; and this extraordinary sacrifice is all too often viewed as routine. Police officers put themselves at risk so that our communities can be safe. One week of recognition is simply not enough for that type of selflessness. America's men and women in uniform give us their best, and they deserve the best from us in return.

TRIBUTE TO THE LATE EINEZ YAP

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. MEEK of Florida. Mr. Speaker, I rise to pay tribute to the late Einez Yap.

Einez Yap, who passed away unexpectedly on May 18, 2005, was a quintessential community activist who went about helping others in a quiet and dignified manner. Her passing is tragic, not just to her family, but to all those who knew her.

She was the visionary behind the establishment of LEASA Industries in 1977, when it began as a small family-owned business. Since its humble beginnings in Liberty City, the company has grown to become one of the largest growers of bean and alfalfa sprouts and one of the largest manufacturers of tofu and suppliers of fresh fruits and vegetables in the state of Florida.

A dutiful partner and wife to George Yap, President/CEO of LEASA Industries, Einez was a doting mother and proud grandmother. Her business acumen was instrumental in enabling LEASA Industries to become a recipient of the prestigious National Minority Manufacturer of the Year Award for 1997–1998 and the acknowledgement of LEASA Industries as one of Florida's fastest growing private companies by the University of Florida's Center for Entrepreneurship and Innovation.

The tremendous success that Einez enjoyed in business, however, was secondary to her impact as a community leader. A member of several community organizations, Mrs. Yap was the resilient president of the Chinese Cultural Foundation and founder of the Organization of Chinese Americans, as well as the untiring entrepreneur spearheading the annual celebration of the Chinese New Year Festival in Miami-Dade County for the past decade. Additionally, she served on the Board of the Asian-American Federation of Florida, as well as Advisory Council of the National Alliance to Nurture the Aged and the Young (NANAY), Inc. She has been the patroness and benefactress of many more community organizations that are at the forefront of seeking equality of opportunity for minority groups; and she has been a featured leader for the Miami-Dade Community Relations Board as it deals with the challenge of inclusion of the disenfranchised and the underrepresented in our community.

Her contributions to our community were recently acknowledged in March of 2005, when she was honored as a Pioneer at Miami-Dade County's ''In The Company of Women'' Awards—a distinction previously bestowed on the likes of former Congresswoman Carrie Meek and U.S. Attorney General Janet Reno, among others.

Her Catholic faith was the source of inspiration and motivation for her reaching out to the downtrodden—as evidenced by her commitment early on at LEASA Industries to employ hard-to-place and at-risk residents.

''They're God's people, too—and are in need of a second or third-chance in life . . . if we can't help them, then who will . . .'' is often the stance that defined her commitment to the community she so loved.

Einez Yap was truly a woman of active compassion and a leader in our community, and her passing is a heavy blow to our community. I know I speak for all my colleagues in extending our deepest sympathy and condolences to her husband, George Yap, and son Andrew.

HEAD START REAUTHORIZATION

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. KUCINICH. Mr. Speaker, the goal of Head Start has always been to help young children in low-income families, specifically those below the poverty line, prepare for school. Head Start has focused its resources on the children most in need, and has been successful in narrowing the gap between disadvantaged children and their peers. Today, we can correct a problem in Head Start and ensure that it serves all the children it was intended to.

The poverty thresholds were developed in the early 1960s and at that time statistics showed that families typically spent one-third of their income on food. The thresholds were designed to take the costs of the Department of Agriculture's economy food plan for families and multiply the costs by a factor of three. Currently, the calculations of the poverty line for Head Start are adjusted by the Consumer Price Index annually to account for the growth in prices. Unfortunately, the current calculation leaves important factors out of the calculation of the poverty line.

Adjusting only for changes in price growth ignores the reality that times have changed. It is not 1965. Today, families are much more likely to spend significant portions of their income on housing. It is more likely that both parents will be working full time jobs. Both childcare costs and the likelihood that a family will need it have also increased.

Additionally, the failure to adjust the poverty line as wages have grown now means that families in poverty today are worse off relative to the typical family than families in poverty were 40 years ago. For instance, the threshold for a family of four, when the poverty thresholds were first introduced—$18,810 in 2003 dollars—was 42 percent of the median income of a family that size. By 2003, the value of the poverty threshold for a family of four had fallen to 35.7 percent. Adjusting only for changes in price growth for the past 40 years has slowly eroded the group of intended recipients. Now we are left with families in need of assistance whose children are not even eligible for Head Start.

This amendment seeks to bridge the gap that has been created and ensure that it will not be created again in the future. Currently, the 2005 poverty line for a family of 3 is $16,090. By tying the poverty line to wage growth, rather than price growth, the poverty line for a family of 3 would become $19,610. The increase in the poverty line produced by this change by no means raises eligibility to include every child who could benefit from Head Start. But this adjustment will significantly help the families who should have been eligible all along. It is a step in the right direction; the direction of ensuring that the working poor are given the help they need to survive.

This committee is not only charged with ensuring that Head Start programs are performing well but with ensuring that they are serving all the children they were intended to. This amendment will help to ensure that children do not continue to be left behind. I urge my colleagues on the Committee on Education and Workforce to join me in supporting my amendment.

TO HONOR MS. EMMA TORRES

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. GRIJALVA. Mr. Speaker, I would like to take a moment to recognize an amazing woman from my district, Emma Torres from Yuma, Arizona. She is a role model and inspiration for all; her work and dedication was recently recognized, internationally, when she was honored by Mexico's Ministry of Foreign Affairs with the Ohtli Award. This award acknowledges her contributions to the development of Hispanic communities and for her support in social causes. The Ohtli award is given to distinguished Hispanic leaders who devote their lives promoting and fostering the prosperity of communities in the United States. The word Ohtli means ''righteous path'' in Nahuatl.

Emma has been a strong border community leader and health advocate for migrant and seasonal farm workers in Western Arizona for more than 20 years. After losing her husband to leukemia in 1982, she turned a personal and painful life experience into a mission to enhance the quality of life of farm workers. She co-founded and is the current Executive Director of Campesinos Sin Fronteras, a grassroots, community-based organization that uses education and advocacy to improve the standard of living for farm workers. Prior to her current position, she was the Field Office Director for Puentes de Amistad/Bridges in Friendship under the leadership of the Arizona Border Health Foundation. In 2004, President George W. Bush appointed Emma to the US/Mexico Border Health Binational Commission.

She has pioneered the Lay Health Worker/Promotora Model in Arizona since 1987, and as a certified Inter-Cultural Affairs (ICA) facilitator has led efforts to bring adequate healthcare coverage to our most vulnerable populations.

Most recently Emma accomplished one of her personal dreams—she received her degree in social work from Northern Arizona University. This is the latest of recognitions for Emma's commitment, persistence, and belief in improving one's personal life and that of one's community.

Emma's life is an example to others; pursue one's dreams, believe in making change, be strong, and progress will prevail.

TRIBUTE TO MS. JACQUELINE H. SMITH, NORTH MIAMI BEACH COUNCILWOMAN

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. MEEK of Florida. Mr. Speaker, I rise to pay tribute to Ms. Jacqueline H. Smith, North

Miami Beach City Councilwoman. On May 20, 2005, the Commission on the Status of Women of the City of North Miami Beach and Women in Politics will gather at a farewell luncheon to ''honor one of their own.''

Throughout Ms. Smith's 10-year term on the North Miami Beach City Council, she is best known for her work on programs for children and senior citizens. Ms. Smith is a liaison to children's ''Read Aloud Program.'' This tremendously rewarding program stimulates children's interest in reading and also promotes a decrease in television time by allowing children of all ages to listen to volunteers read books aloud. In addition, Ms. Smith is affiliated with the North Dade Children Center, where she is involved in youth and senior health fairs.

Ms. Smith has touched many peoples' hearts in North Miami Beach through her accomplishments as a member of numerous organizations. I want to applaud her tremendous commitment to community service, dedicating her time to organizations such as the National Organization of Women, the Carl Byoir Neighborhood Association, the Governing Board of Parkway Regional Hospital and the Board of Directors of United Democratic Club, just to name a few.

Besides serving as an elected official and community activist, Ms. Smith takes pride in being a teacher at Gertrude K. Edelman Sabal Palm Elementary School.

Ms. Smith has truly demonstrated that public service and education are achievements never beyond the reach of those willing to dedicate all their energy to accomplish the goals for the greater good of the public. I extend her my heartfelt gratitude for a superb job and wish her the best of luck in her retirement.

PRESERVING THE FOUNDATION OF LIBERTY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. KUCINICH. Mr. Speaker, I commend my friend and colleague, Representative C. L. ''BUTCH'' OTTER, as well as Elizabeth Barker Brandt, Professor of Law at the University of Idaho, for their excellent article recently published in the Journal of Law, Ethics and Public Policy, Notre Dame Law School. I am proud to be an original cosponsor of Congressman OTTER'S Security and Freedom Ensured Act of 2005 (SAFE Act) that rolls back the most alarming provisions of the Patriot Act. The article, Preserving the Foundation of Liberty, is an important critique of the federal government's expanding prosecutorial powers in the wake of the terrorist events in September 2001.

PRESERVING THE FOUNDATION OF LIBERTY

C. L. ''BUTCH'' OTTER & ELIZABETH BARKER BRANDT

The sacred rights of mankind are not to be rummaged for, among old parchments, or musty records. They are written, as with a sun beam, in the whole volume of human nature, by the hand of the divinity itself; and can never be erased or obscured by mortal power.

—Alexander Hamilton

Foundations are supposed to be steadfast. The very idea of a foundation is to provide a pinion between the fixed and the transient, the permanent and the temporary. The foundation is the unalterable base upon which to build. So it is with our Constitution and Bill of Rights. They are the rock upon which we have built our modern republic, while protecting the individual from the government itself. For more than two centuries, they have provided the firm foundation of liberty and opportunity from which America and its people have taken wing, enjoying success and weathering failure, celebrating triumph and mourning tragedy.

After the terrorist attacks of September 11, 2001, forgetting our past and fearing our future, Congress began turning that foundation on its head, acting as if physical security requires the sacrifice of individual rights to government imperatives. While paying lip service to our heritage of limited government and individual liberty, we began acting as if individual rights are conditional, derived not from God nor inherent in the human condition, but subject to the collective expression of our fears. Worst of all, we convinced ourselves we were doing nothing of the kind, or that the manifest benefit of a safer society was worth risking the loss of individual liberties.

Congress passed the USA PATRIOT Act just weeks after the September 11 attacks, while the dead from the World Trade Center towers in Manhattan, the Pentagon in Washington, and from Flight 93 in Pennsylvania were still being buried. An anthrax threat, assumed by many at the time to be another terrorist attack, had forced members of Congress out of their offices. Few, if any, lawmakers were truly aware of the new and expanded law enforcement authority within the PATRIOT Act. They only knew that they had to do something to quiet the public's fears, and their own.

This was not an executive order from a president reacting to a concrete and immediate threat. This was not the temporary imposition of martial law in response to a natural disaster or military assault. This was the world's greatest deliberative body hastily enacting an incredibly detailed, complex, and comprehensive piece of legislation without all the facts. That haste and lack of deliberation left advocates backfilling many of the arguments in support of certain provisions of the law that now appear to be glaringly at odds with constitutional principles.

I. CONSTITUTIONAL FOUNDATIONS

The Framers of our Constitution drew on an extensive body of law and tradition to recognize certain rights were inalienable—they transcended the power of government: The colonists who fostered the tree of liberty recognized that individual rights were its taproot. The notion that ''a man's home is his castle,'' a place free from the intrusion of government, was a time-honored theme—part of both the Code of Hammurabi and the pronouncements of the Roman Emperor Justinian. This notion was one of the inalienable rights with which Englishmen were thought endowed and which the English barons sought to protect, through the Magna Carta, from the ad hoc interference of King John.

The concept of inalienable rights infused the colonists' understanding of liberty. It can be seen in diverse writings, from Patrick Henry's rousing appeal for self-determination in the Parsons' Cause case of 1763 to the claim of the Declaration of Independence that ''all Men are created equal, that they are endowed by their Creator with certain unalienable Rights. . . .'' More than a desire for independence or equality, the idea that made America a reality and continues to make America great is that individual rights are God-given and unalienable and that government should be neither more nor less than man's collective expression of those rights. That is the contract, the foundation upon which America was imagined. It is designed to protect individuals—their persons, homes, property, speech, worship, associations, and privacy—from the tyranny of government by the majority.

Yet, the Fourth Amendment reflected more than a generalized notion of inalienable rights. It was a specific response to the British government's pre-constitutional violation of colonists' individual rights through the use of ''Writs of Assistance.'' The writs were general, universal, perpetual, and transferable search warrants used to enforce smuggling laws so the cash-strapped British crown could wring revenue from the colonies to satisfy the crushing debt of a worldwide empire. They authorized ''all and singular justices, sheriffs, constables, and all other officers and subjects'' to enter homes and businesses at will—ostensibly in search of smuggled items—and to seize virtually any property without accounting or recompense. Writs of Assistance blatantly disregarded personal privacy and offended basic civil liberties, as they were understood by colonial times. Not only were the writs broad and intrusive but many of the colonists believed they had been outlawed in Britain—that only the colonists were subject to such intrusions.

The infringement on personal privacy and property rights represented by the Writs of Assistance was so outrageous that, in 1761, it prompted Boston attorney James Otis, a loyal officer of King George III, to resign his position as an advocate general in the vice admiralty court. Subsequently, he was commissioned by Boston merchants to make their case against renewal of the writs. Otis's stirring five-hour argument indicted the expansion of government authority in violation of the individual rights of British subjects. ''It appears to me (may it please your honours) the worst instrument of arbitrary power, the most destructive of English liberty, and the fundamental principles of law, that ever was found in an English lawbook.'' Otis's argument in the Writs of Assistance case hinged on several major points, one of which was the invocation of the ancient notion regarding the sanctity of the home. Otis argued that householders would reduced to servants under the writs because their homes would subject to search at any time: ''Now one of the most essential branches of English liberty is the freedom of one's house. Man's house is his castle; and while he is quiet, he is as well guarded as a prince in his castle. This writ, if it should I declared legal, would totally annihilate this privilege.''

John Adams, then a young lawyer, was in the courtroom hear Otis's argument. Fifty-six years later, in a letter to a colleague, the founding father and America's second president recalled the impassioned defense of liberty as a transcendent moment on the path to revolution: ''Then and there, the child Independence was born.''

Also born that day, and reared to maturity by Adams and many others, was a critical element of America's constitutional foundation—the commitment to protect ''the freedom of one house,'' which became the Fourth Amendment. The idea that those rights transcend the needs of any particular time and place is embedded in our jurisprudence. Justice Robert Jackson wrote:

The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and

other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.

With those words, the U.S. Supreme Court struck down the widely popular practice, adopted in a burst of patriotism during World War II, of requiring public school students to salute the American flag. Writing for the majority, Justice Jackson crystallized the argument for protecting most vigorously the least popular of our individual rights in the overheated political climate of the moment. While public displeasure served as a natural defense of liberty against the Writs of Assistance once Otis sounded the alarm, the Constitution and Bill of Rights institutionalized protection of minority rights from majority will and created a foundation for individual liberty. The test of such a foundation is how firmly it is reinforced against time and tides.

II. ''SNEAK-AND-PEEK'' WARRANTS PRIOR TO THE USA PATRIOT ACT

Just as the British crown felt compelled, in the interest of empire, to sacrifice the rights of citizens remote from the seat of government, section 213 of the PATRIOT Act, in the name of fighting terrorism, deprives Americans of the right to be ''as well guarded as a prince in his castle.'' Section 213 of the PATRIOT Act greatly expands what already was constitutionally questionable authority for delayed notification of the execution of search warrants.

Prior to the PATRIOT Act, the Federal Rules of Criminal Procedure established the framework for the execution and return of warrants. Rule 41(f) requires that the officer executing the warrant enter the date and time of its execution on its face. It further requires that an officer present at the search prepare and verify an inventory of any property seized. Moreover, Rule 41(f) provides that the officer executing the warrant ''give a copy of the warrant and a receipt for the property taken to the person from whom or from whose premises, the property was taken'' or ''leave a copy of the warrant and receipt at the place where the officer took the property.'' Congress recognized an extremely limited exception to the notification requirements under certain circumstances where notification would endanger the life or physical safety of an individual, would result in flight from prosecution, destruction of evidence, or intimidation of witnesses, or would otherwise jeopardize an investigation.

The case law regarding surreptitious searches was unsettled at the time the USA PATRIOT Act was adopted. The U.S. Supreme Court never directly addressed the constitutionality of broad surreptitious search provision. In Berger v. New York, the Court struck down New York's wiretapping statute because it lacked a number of procedural safeguards to limit the intrusiveness of wiretapping. Among the statute's deficiencies was that it had no requirement for notice. And, in contrast to other wiretapping statutes, the New York provision did not make up for the deficiency by requiring a showing of exigent circumstances to justify the lack of notice. However, in Dalia v. United States, the Court refused to hold all surreptitious searches per se unconstitutional. Rather, the Court reasoned that under some circumstances, surreptitious searches could be authorized where such searches were reasonable, such as where they were supported by a warrant.

On this landscape, the federal circuit courts addressed the constitutionality of delayed notification of searches. In United States v. Freitas, the Ninth Circuit held that a warrant that failed to provide for notice within a ''reasonable, but short time'' after the surreptitious entry was constitutionally defective. The Freitas court held that a delay in notification should not exceed seven days, except when supported by a ''strong showing of necessity.''

Even courts upholding delayed notification of search warrants have imposed significant limitations on such searches. In United States v. Villegas, the Second Circuit reasoned:

Though we believe that certain safeguards are required where the entry is to be covert and only intangible evidence is to be seized, we conclude that appropriate conditions were imposed in this case. Certain types of searches or surveillances depend for their success on the absence of premature disclosure. The use of a wiretap or a ''bug,'' or a pen register, or a video camera would likely produce little evidence of wrongdoing if the wrongdoers knew in advance that their conversations or actions would be monitored. When non-disclosure of the authorized search is essential to its success, neither Rule 41 nor the Fourth Amendment prohibits covert entry.

The Second Circuit determined that a number of safeguards applied to surreptitious searches. First, the court noted that if tangible evidence was seized during the search, officers must leave an inventory of the property taken at the location or must provide the inventory to the owner of the searched premises. Additionally, the court concluded that, with regard to electronic surveillance, the requirements of federal wiretapping laws provided significant safeguards. The court further reasoned that the safeguards of the federal wiretapping statute also apply by analogy to video surveillance. Even with regard to surreptitious entries in which no tangible property is seized, the Second Circuit held that law enforcement officers must establish that there is a reasonable necessity for the delay of notice and must provide notice within a reasonable, but short, period of time after the search. Although the Villegas court did not adopt the seven-day limitation of Freitas, the court did conclude that, as an initial matter, delays of longer than seven days should not be authorized.

While there is a paucity of case law on the general questions of whether and when notice of the execution of a search required, significant authority also establishes the closely related notion that law enforcement officials must knock and announce themselves before executing a search warrant. Even before American independence, British law required law enforcement officials to knock and announce themselves before executing a search warrant. The United States Supreme Court has recognized that whether law enforcement officers knock and announce themselves is a factor to be considered in determining whether a search is reasonable. The Court's reasoning was based substantially on the notion that government officials must provide notice before entering a person's home. The Court acknowledged that this notion formed part of the Framers' understanding of what constituted a reasonable search. While the Court has recognized an exigency exception to the ''knock and announce'' rule, it has not overruled it.

Thus, at the time the PATRIOT Act was adopted, no federal court had authorized unlimited use of ''sneak-and-peek'' warrants. Moreover, even those courts authorizing limited surreptitious entry had placed significant limitations on such searches.

III. ''SNEAK-AND-PEEK'' WARRANTS UNDER THE USA PATRIOT ACT

No federal court has ever confronted the virtually unlimited authority to dispense with notice contained in the PATRIOT Act. Section 213 eliminates the time limits for notification under prior federal law, makes judicial review of the necessity of delayed notification perfunctory and so loosens the standard for delayed notification as to render it meaningless. It strikes at the foundation of liberty embodied in the Fourth and Fifth Amendments and at the essential protections of probable cause, due process, and separation of powers.

Section 213 amends 18 U.S.C. §3103a to add the following language:

''With respect to the issuance of any warrant or court order under this section, or any other rule of law, to search for and seize any property or material that constitutes evidence of a criminal offense in violation of the laws of the United States, any notice required, or that may be required, to be given may be delayed if (1) the court finds reasonable cause to believe that providing immediate notification of the execution of a warrant may have an adverse result (as defined in section 2705);

''(2) the warrant prohibits seizure of any tangible property, any wire or electronic communication (as defined in section 2510), or, except as expressly provided in chapter 121, any stored wire or electronic information, except where the court finds reasonable necessity of the seizure; and (3) the warrant provides for the giving of such notice within a reasonable period of its execution, which period may thereafter be extended by the court for good cause shown.''

Section 213 changes prior federal law regarding notification of searches in several important ways. First, it permits delayed notification of a search in any case in which the government demonstrates that one of several adverse factors ''may'' occur, regardless of whether the investigation involves terrorism or the gathering of foreign intelligence. The adverse factors justifying delayed notice are that notification would endanger the life or physical safety of an individual, would result in flight from prosecution, destruction of evidence, intimidation of witnesses, or would otherwise jeopardize an investigation or unduly delay a trial.

This standard is so open-ended that these invasive warrants could be obtained as a matter of course; the government need only state that notification of a search ''may'' ''seriously jeopardize'' an investigation. Although the standard for delay was part of pre-PATRIOT law, the earlier statute was limited to covert seizures of electronic communications held in third-party storage.

The nature of criminal investigation is that unpredictable things may happen. It is always conceivable that the target of a search may act in an unpredictable fashion when he or she is notified of the warrant and thereby jeopardize an investigation. As a result, section 213 places virtually no limit on ''sneak-and-peek'' searches.

The second distinction between the PATRIOT Act and prior law is that officers may seize tangible property using a covert warrant under the PATRIOT Act without leaving an inventory of the property taken. Thus, the PATRIOT Act actually authorizes ''sneak-and-steal'' warrants. The law requires only that the warrant ''provides for the giving of such notice within a reasonable period of its execution, which period may thereafter be extended by the court for good cause shown.''

Again, prior statutory provisions for delayed notification applied only to electronic communications in third-party storage. The cases dealing with delayed notification authorized surreptitious entry but required officers to leave an inventory if property was taken. Although the approach of courts like the Second Circuit in Villegas, in our view, did not properly limit the use of ''sneak-and-peek'' warrants, it is significantly more limited than the PATRIOT Act approach.

Third, section 213 permits delayed notification even where the government seizes electronic information, so long as the court issuing the warrant finds ''reasonable necessity'' for the seizure. Thus, if officers get a warrant under federal wiretapping statutes, they still must comply with a complex set of safeguards. For all other warrants involving electronic communications—those involving video or Internet surveillance, for example—delayed notification under the PATRIOT Act applies.

Fourth, section 213 places no express limit on the length of the delay. Instead, it authorizes delay for a ''reasonable period'' of time and permits extensions of the delay for ''good cause shown.'' Section 213 opens the door for secret searches extending over months or even years without the knowledge of the target of the search. Such delays render notice meaningless. Although the judge in any particular case may impose a specific deadline by which notice must be given, the statute does not require such a deadline. Where the warrant itself does not impose specific time limits, judicial review of the necessity of continuing delay in notification is impaired. No concrete timeframe triggers a governmental duty to justify continued delay. Because the target of the search is, by definition, unaware of the search, he or she cannot be expected to seek review of the need for continued delay. Courts would have the opportunity to review the necessity of delay only after the fact, while also under the pressure to prosecute and admit evidence obtained through the notice-less search.

Finally, section 213 extends the availability of ''sneak-and-peek'' warrants far beyond the PATRIOT Act's stated purpose of fighting terrorism. The provision contains no limitation on the types of cases in which a covert warrant could be used.

CONCLUSION

The threatening nature of section 213 is not obvious, and thus, it is more dangerous to the cause of preserving liberty. If the public is blinded by fear of terrorism or ignorance of what is at risk, section 213 has the potential to become the insidious mechanism of steady but discernible erosion in the foundation of our freedoms. Section 213 takes the exception and makes it the rule—in fact, makes it the law of the land. It gives broad statutory authority to secret searches in virtually any criminal case. Even if the Supreme Court upholds the constitutionality of such practices, Congress can—and should—limit them by statute. In such cases, justice delayed truly is justice denied.

Terrorism is a scourge that must be addressed. Government has a fundamental duty to protect its people from enemies, foreign or domestic. Fear of terrorism, or anything else, deprives us of free choice as surely as does tyranny; indeed, terrorism is an instrument of tyranny. We must not, however, allow fear to erode the constitutional foundation of our freedom. We can no more gain real security by being less free than we can gain wealth or wisdom or anything else of value. No such trade-off is possible. That is the definition of ''unalienable''—rights with which we were endowed by our Creator, and which therefore cannot be repudiated or transferred to another. Our Constitution recognizes that higher law, and we ignore it at our peril.

We now are engaged in a national crisis, an unconventional war in which our surreptitious enemies use the camouflage of a free society's commitment to privacy and diversity to achieve their goals. Our government is justified in adapting its law enforcement methods to the new threat, but we must take care to ensure those methods are consistent with the timeless principles of our founding. To do less is to sanction a dangerous expansion of governmental authority and a corresponding reduction of personal privacy.

Our body of laws serves as both a connecting mortar and a protective barrier between the foundation of our Constitution and the structure of our government. Laws are necessary for applying constitutional principles to the endless variety of everyday life. They join the abstract and the concrete. They enable us to safely explore our freedom and realize the potential of liberty.

However, when laws reach beyond limits imposed by the Constitution, when they grant too much power to government and too little deference to the source of that power, they cease to connect or protect. If unchecked, these laws can destroy the foundation of individual rights. Proponents contend that we have nothing to fear from section 213 or any other provision of the PATRIOT Act. This may be true, as long as the public is as vigilant as the American colonists were after Otis inflamed their passions regarding the Writs of Assistance. But can we trust that the law will be used as judiciously, with as much care to protecting civil liberties, once the public's attention has turned to other matters?

The concern is not new or unique to the PATRIOT Act. Few of our Founding Fathers had greater faith in his fellow man than Thomas Jefferson. Yet that faith had its limits. In the Kentucky Resolutions, Jefferson wrote:

[I]t would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights: that confidence is everywhere the parent of despotism-free government is founded in jealousy, and not in confidence; it is jealousy and not confidence which prescribes limited constitutions, to bind down those whom we are obliged to trust with power: that our Constitution has accordingly fixed the limits to which, and no further, our confidence may go . . . .

Due process. Probable cause. Those are the constitutional limits within which we ''bind down those whom we are obliged to trust with power'' and preserve our individual rights. A law that sets those limits aside, or obfuscates them in vague statutory language and legalistic definitions, has the potential for eroding the foundation of freedom as surely as terrorists have the potential for breaching the ramparts of our security. An informed people and a vigilant and responsive Congress are the keys to guaranteeing that our rights to security and freedom are ensured. They are essential to protecting the foundation of liberty and preserving each individual's God-given role as the architect of his or her own destiny. As John Stuart Mill warned:

A people may prefer a free government, but if, from indolence, or carelessness, or cowardice, or want of public spirit, they are unequal to the exertions necessary for preserving it; if they will not fight for it when it is directly attacked; if they can be deluded by the artifices used to cheat them out of it; if by momentary discouragement, or temporary panic, or a fit of enthusiasm for an individual, they can be induced to lay their liberties at the feet even of a great man, or trust him with powers which enable him to subvert their institutions; in all these cases they are more or less unfit for liberty.

TO HONOR MR. JIM BRODIE

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. GRIJALVA. Mr. Speaker, It is with great honor that I recognize Jim Brodie. Jim was a respected member of the community, providing tireless hours to the youth, community and Habitat for Humanity.

Jim was a lifelong union ironworker, working in industrial and commercial construction. Upon retirement, he continued his service to our community by assisting Habitat for Humanity of Tucson in the construction and later supervision of projects throughout the Old Pueblo.

The energy and expertise he provided for Habitat for Humanity, its volunteers and its clients was unprecedented. He was a gifted leader, working on multiple projects and at various stages of the products. Among his many talents was the ability to work with young and old alike. This is especially noted with his success in working on the High School Build Program, proving to be a mentor, role model, and friend to the students he supervised.

For the last 8 years of his life, Jim's work with the Habitat High School Build programs inspired the youth, their parents, and their teachers. Although initially hesitant to work the students, his ability to motivate and provide guidance came to him second nature. He was a natural teacher, impacting multiple lives and instilling pride in the lives that he impacted.

Jim's role in supervising the Habitat High School Build programs, which included five schools and the State Prison programs, was unique. Furthermore, it was a true gift to our community and youth. He worked closely with the high school teachers to develop important mentoring relationships with students. His dedication went well beyond the building projects and will influence students for years to come.

His legacy includes the 40 families that now live in Habitat homes built by students participating in the High School Build program. Jim was admired by all who met or heard of him. His life and work is an inspiration to us all.

THE FAIR MINIMUM WAGE ACT OF 2005

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. GEORGE MILLER of California. Mr. Speaker, today, together with 100 of my colleagues, we are introducing legislation to raise the Federal minimum wage from $5.15 to $7.25 over 2 years. Senator EDWARD KENNEDY is introducing identical legislation in the Senate. Two reports that are also being released today, one by the Center for Economic and Policy Research and one by the Children's Defense Fund, make obvious the importance of raising the minimum wage for workers, children, and families.

American workers are long overdue for a raise. Real wages are actually declining for the first time in more than a decade, while

prices for healthcare, gasoline, and other necessities are rising, making it even more urgent that we raise the minimum wage now. The minimum wage has been stuck at $5.15 per hour since 1997—$5.15 per hour. These days, a gallon of milk can cost half that much in some parts of the country. Imagine working for the better part of an hour and only being able to afford a gallon of milk—how do you ever make ends meet? The answer is: you don't.

One of the reports issued today, from the Center for Economic and Policy Research, shows that most minimum wage workers make significant contributions to their total family income. Half of them are between the ages of 25 and 54. The report also shows the importance of increasing the minimum wage to prevent families from falling further into poverty. Too often minimum wage jobs are not transitional. As the report makes clear, many workers find themselves trapped in minimum wage jobs; more than one-third of 25- to 54-year-old workers in minimum wage jobs are still earning the minimum wage after three years. The report is entitled ''Not Up, Not Out: Few Prime-Age Workers Move Out of Minimum Wage lobs'' and is available at http://www.cepr.net/publications/labor__markets__2005__05.pdf.

The other report, from the Children's Defense Fund, shows that importance of increasing the minimum wage for more than 10 million children. The report, entitled ''Increasing the Minimum Wage: An Issue of Children's Well-Being,'' states: ''The annual income of an individual working full-time, with two children, at the $5.15 an hour minimum wage leaves them $4,500 below the poverty level. An increase in the minimum wage to $7.25 would benefit many of the 9.7 million children who live in households where at least one worker earns between the current minimum wage and $7.25 per hour. Furthermore, 1.2 million of these children live in households where two or more workers earned less than the proposed minimum wage.'' At $5.15 per hour, a worker who works 40 hours a week for 52 weeks a year earns $10,712. In 2003, the poverty level for a family of two (a parent and a child) was $12,682. The Children's Defense Fund report is available at http://www.childrensdefense.org/familyincome/obs/minimumwagereport2005.pdf.

Every American deserves a decent wage for the work they do, and most Americans agree that we should raise the minimum wage. Congress disrespects workers and violates the will of the people when it refuses to increase the minimum wage. We ought to respect workers by guaranteeing them a fair wage. Work should be the path out of poverty, but millions of Americans work fulltime and still live in poverty.

The Miller-Kennedy legislation also extends the minimum wage to the Commonwealth of the Northern Mariana Islands, a U.S. territory in the Pacific Ocean. For years, the Congress has allowed basic labor standards to be denied to workers in the Marianas. We cannot continue to allow workers to be trapped in virtual involuntary servitude under sweatshop working conditions, indebted by usurious recruitment fees, paid inadequate wages and too often cheated out of what little they are owed. I have introduced legislation, H.R. 2298, to protect workers from recruitment abuses and to hold recruiters and employers responsible for the working conditions they have promised. This bill goes a step further to ensure a decent minimum wage.

Among the 7.5 million workers earning between $5.15 and $8 an hour—the people this bill is intended to help—84 percent of them are adults over the age of 20. Nearly half of them are married or have children. Over half of them are women; 59 percent are white; 13 percent are black; and 23 percent are Hispanic. Sixty percent of them work full-time.

The inflation-adjusted value of the minimum wage has declined 20 percent since 1997. The legislation we are introducing today, the Fair Minimum Wage Act of 2005, increases the minimum wage from $5.15 to $5.85 within 60 days; then to $6.55 1 year after the first increase; and finally to $7.25 1 year after that.

I urge my colleagues to support this vital legislation.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

SPEECH OF

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes:

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in support of H.R. 2360, the Homeland Security Appropriations Act for Fiscal Year 2006. As a member of the Homeland Security Subcommittee, it has been an honor to work with Chairman HAL ROGERS and our Ranking Member, MARTIN SABO, in drafting this bill. I would like to commend them both, for their efforts to address our Nation's security needs despite the severe budget constraints forced upon them.

Mr. Chairman, this bill provides $30.85 billion for operations and activities of the Department of Homeland Security, DHS, in fiscal year 2006, an increase of $1.37 billion above the fiscal year 2005 enacted levels. Although the bill does not fully fund many initiatives critical to securing the homeland, I am pleased that this legislation does provide adequate funding for several programs of importance to urban communities such as my own in Los Angeles.

For instance, State and local emergency managers will be happy to learn that although the President continues to zero out the funding in his budget request for the Emergency Management Performance Grants, the committee has appropriated $180 million for this grant program. Congress has rightly called this program ''the backbone of the Nation's emergency management system.'' In California, emergency managers use these grants to develop plans to help prepare our residents for disasters such as earthquakes, fires, floods, or terrorist attacks.

The bill also provides $750 million for Statewide formula grants which are distributed on a per capita basis to first responders. The current population-based formula is under review by the Homeland Security Authorization Committee which is determining whether or not funds should go to States based solely on population. In lieu of any changes by the authorizing committee to the formula, this bill directs DHS to maintain a minimum allocation of .75 percent per State and to allocate the rest based on threats and need versus population. I strongly agree that targeting funds based on the assessment of actual vulnerability is a much more effective use of limited resources than population alone. Furthermore, the committee recognizes that DHS must still establish a national preparedness goal which will help our States develop appropriate homeland security funding goals.

Our firefighters were among the first to respond to the tragic events of September 11th, and they will likely be the first to respond in the event of a future attack. The fire grant program helps local fire departments deal with these and other needs by allocating funds for equipment and staff. Unfortunately, the President proposed cutting funding for these programs by $215 million, or 30 percent. This bill restores most of the president's cuts by providing $600 million for fire grants and $50 million for firefighter staffing grants. This is critical funding because only 13 percent of fire departments are prepared to respond to a hazardous material incident and an estimated 57,000 firefighter's lack personal protective clothing for a chemical or biological attack. I would hope that by the time this bill goes to the President, these programs will be fully funded at last year's level of $715 million at a minimum.

In addition, the bill strengthens the committee's direction that port security grants, for the 55 ports of national significance, should be based on vulnerability assessments. This means that limited resources for port grants will be used where they are needed most. While we are dedicating $150 million to both the port and the transit security programs, the Administration had proposed no funding for these critical programs. This is inexcusable particularly when the Coast Guard and the transit industry have indicated $7 billion and $6 billion in security needs in their respective industries to improve security. I am also pleased that Congress dedicated $50 million for the security of chemical plants.

I thank Chairman ROGERS and Ranking Member SABO for including in the Homeland Security report several items I requested to address serious issues raised during subcommittee hearings with representatives of the Department of Homeland Security.

For example, the report expresses deep concern about reports that children, even as young as nursing infants, apprehended by Immigration and Customs Enforcement (ICE) are being separated from their parents and placed in shelters operated by the Department of Health and Human Services while parents are held in separate jail-like facilities. The Committee's report language directs DHS to release families or use alternatives to detention whenever possible, and when detention of family units is necessary, the Committee directs DHS to use appropriate detention space to house them together.

The report also addresses the need to expand the use of Legal Orientation Programs to additional ICE detention centers in the country. Legal Orientation Programs consist of legal presentations made by nongovernmental

agencies to all persons in immigration detention prior to their first hearing before an immigration judge. This program saves on the costs of immigration detention, makes Immigration Court more efficient, and facilitates access to justice for detained immigrants in removal proceedings. Immigrants are better prepared to accept their removal earlier in the immigration hearing process when they have learned from organizations not affiliated with the government that they have exhausted their immigration relief options.

I am also pleased that the report contains language I requested to improve the quality assurance standards at our ports of entry. The Committee urges Customs and Border Protection to consider expanding the use of videotape systems to record interactions between potential asylum seekers and border patrol agents at our ports of entry. These tapes should be reviewed and retained for a sufficient period of time to ensure that asylum seekers are treated equally and with fairness at any one of our ports of entry.

The bill once again includes language I drafted to prevent the Department of Homeland Security from moving forward with the unnecessary and potentially dangerous privatization of key immigration officers at the Bureau of Citizenship and Immigration Services. These officers are responsible for handling classified information used to prevent fraud and the exploitation of our immigration laws. I am thankful that this inherently governmental work will continue to remain the responsibility of trained and experienced federal employees directly accountable to the Department and not to the bottom line of a private company.

The report also includes language which I requested to address concerns about Customs and Border Protection employees who were required to participate in a six-day twelve week basic training, but who were not fully compensated for all of their days of work. The report directs the Commissioner of Customs and Border Protection to report on the number of employees who were not compensated and also on the steps the department is taking to resolve the problem.

Finally, the report directs the Transportation Security Administration to report on the status of their efforts to issue regulations for basic security training for flight attendants. I am pleased we are keeping TSA accountable to this task, and I look forward to the timely completion of this report.

However, Mr. Chairman, despite the fact that this Homeland Security Appropriations bill addresses several of the issues I raised in hearings and increases funding levels in certain accounts, I am concerned that this year's bill continues the practice of underfunding several homeland security recommendations as well as the initiatives and programs mandated by Congress to ensure our Nation's security.

As one of the largest cities and metropolitan areas in the country, Los Angeles is considered to be one of the most ''at risk'' areas for terrorist attacks. For this reason, I am disappointed that this bill provides only a slight increase of $15 million over last year's funding for Urban Area Security Initiative grants compared to the $405 million increase requested in the President's budget. Protecting our most vulnerable cities and towns is extremely costly and causes tremendous hardship on local governments. We must ensure that they receive the adequate funding to keep our most vulnerable cities secure.

I am further disappointed that the bill appropriates $5 million for a program which allows States and local jurisdictions to enter into a Memo of Understanding, MOU, with Homeland Security to train local police to enforce limited immigration functions. I believe our limited resources should instead be directed toward identifying and deporting terrorist elements in our country.

In addition, although both the Patriot Act of 2001 and the Intelligence Reform Act of 2004 called for increases in specific areas such as border agents, customs and immigration inspectors, immigration investigators, as well as for additional detention beds, this bill fails to meet the established border enforcement benchmarks—by 500 border patrol agents (25 percent short), 600 immigration investigators (75 percent short), and 4,000 detention beds (50 percent short).

I am also concerned with the decrease in funding that the Bureau of Citizenship and Immigration Services has continued to receive since the creation of the Department of Homeland Security. This bureau is charged with processing thousands of work authorization and citizenship applications for immigrants in our country and yet this bill includes only $120 million for this important agency. This decrease in resources simply does not make sense given that over the last 4 years, the Bureau of Citizenship and Immigration Services continuously fails to meet its 6 month goal for processing citizenship applications. These backlogs send the wrong message to our Nation's immigrants who are eager to become full participants in our society, but must wait years before their citizenship applications can be reviewed and processed. Mr. Chairman, I hope that before we send this bill to the President we will appropriate the funds necessary to once and for all resolve the backlog problems which have plagued this agency for years.

I am disappointed that this bill's report expresses support for expedited removal and recommends its expansion. Expedited removal means that Customs and Border Protection officers can immediately deport individuals they do not believe have a true case for asylum. This year, a federally funded study issued by the U.S. Commission on International Religious Freedom on the impact of expedited removal on asylum seekers found that expedited removal procedures are not being applied evenly across the country. The report found that where an asylum seeker enters our country, the country they come from, and which officer conducts their brief interview, impacts the decision on whether an individual is allowed to see an asylum officer or is deported without further review. Before expedited removal is expanded, as the bill's report recommends, Congress should require the Department of Homeland Security to provide evidence that Customs and Border Protection is making progress in resolving the current and serious problems associated with expedited removal.

Lastly, I am concerned by the Administration's seeming indifference toward protecting critical infrastructure, such as ports, transit and railroad facilities, and chemical plants. Not only have critical assessments not been completed, but the Administration has consistently underfunded or unfunded important infrastructure security programs.

For example, although Congress continues to fund aviation security and provides $30 million for air cargo screening, the Administration has continued to leave the aviation system's vulnerabilities exposed. Despite Congress' direction to increase the percentage of screened air cargo on passenger aircraft, the Transportation Security Administration has not fully implemented the law.

Additionally, the Administration has proposed no new funding to install inline baggage screening machines beyond the currently approved eight airports, and Congress has again decided to only fund the existing programs at 75 percent, rather than the contractually agreed to amount of 90 percent. This creates an additional burden that our cash-strapped communities can ill-afford.

In closing, Mr. Chairman, I will support this bill to provide critical resources to help make our country safer. However, fully addressing these and other critical national security concerns requires resources that the Administration simply did not propose and which the Republican majority did not provide in this bill. While this bill is an improvement over the Administration's request, critical homeland security needs will still go unmet.

U.N. PEACEKEEPING REFORM: SEEKING GREATER ACCOUNTABILITY, INTEGRITY AND EFFECTIVENESS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. SMITH of New Jersey. Mr. Speaker, earlier today I chaired the third in a series of hearings of my Subcommittee on Africa, Global Human Rights, and International Operations, on the topic of reform at the United Nations, and the second hearing we are holding on peacekeeping reform.

On March 1st, just 12 weeks ago, my committee met to examine credible evidence of gross sexual misconduct and exploitation of refugees and vulnerable people by U.N. peacekeepers and civilian personnel assigned to the U.N. peacekeeping mission in the Democratic Republic of Congo. Human rights groups and the U.N.'s own internal investigations had uncovered over 150 allegations against Mission personnel, typically involving peacekeepers' sexual contact with Congolese women and girls, some as young as 11–14, in exchange for food or small sums of money. Further, the U.N. had struggled to deal with similar sexual exploitation and abuse allegations in recent years in Sierra Leone, Liberia, and Guinea, as well as on the European continent in Kosovo and Bosnia. Yet despite many well-meaning gestures, there had not been one successful prosecution of U.N. civilian or military personnel, either in the Congo or elsewhere.

At that hearing, the United Nations made available Assistant Secretary General for Peacekeeping Operations, Dr. Jane Holl Lute to brief the Subcommittee on steps the U.N. Secretariat and Department of Peacekeeping Operations were taking to address the problem. As Members of this Subcommittee may recall, Dr. Lute declared, ''. . . The Blue Helmet has become black and blue through self-inflicted wounds of some of our number and we will not sit still until the luster of that Blue

Helmet is restored. . . . It is unacceptable. It is simply unacceptable. The United Nations peacekeepers owe a duty of care to the people we serve. We owe this duty of care to the member states who place their trust in us when they send us to a mission. We owe this duty of care to the aspirations and hopes for the future that everyone has when they invest a peacekeeping mission in places like the Congo. It will be stamped out.''

Since that time, I am pleased to report that I am seeing signs of real change in the way the United Nations goes about peacekeeping, certainly in the area of preventing human rights abuses. Investigations into allegations of sexual exploitation and abuse involving 96 peacekeeping personnel have been completed, with 66 military personnel repatriated on disciplinary grounds. On the civilian side, 3 U.N. staff have been dismissed; 6 others are undergoing disciplinary process; and 3 have been cleared. Missions have put into place a broad range of measures to prevent misconduct, from establishing focal points and telephone hotlines to requiring troops to wear uniforms at all times.

Moreover, the Fourth Committee of the U.N. General Assembly on April 18th unanimously endorsed the reform proposals of the Special Committee on Peacekeeping Operations, which include: training on standards of conduct; development of established units for peacekeeping rather than those assembled on an ad hoc basis; commitments by all troop contributing countries to pursue investigations and prosecutions of peacekeeping personnel for credible instances of sexual allegation and abuse; creation of a database to track allegations and ensure that prior offenders are not rehired; organization, management and command responsibility to create and maintain an environment that prevents against sexual exploitation and abuse; establishment of a professional and independent investigative capacity assistance to victims; and development of a model MOU for troop contributing countries to encompass these recommendations.

The General Assembly must now act on these recommendations, providing the necessary financial and political support to fully and promptly implement them. It was my desire that the hearing stimulate the same sense of commitment and urgency at the U.N. to undertake broader reforms in peacekeeping.

Peacekeeping has changed significantly since the creation of the United Nations and the first peacekeeping missions, which were largely limited to ''traditional'' nonmilitary functions, such as monitoring of cessation of hostilities agreements, deployment of observer missions, and the maintenance and patrol of borders. With the end of the Cold War, the number of peacekeeping missions ballooned, as the Security Council deployed 20 new missions between 1988 and 1994. Tasks of peacekeepers have also evolved and now include more complex assignments such as nation-building, protection of vulnerable populations, and establishment and maintenance of security in post-conflict environments.

Our collective memories are still painfully sharp in recalling the peacekeeping fiascos of Bosnia, Rwanda and Somalia. Thankfully we have some notable successes to balance the picture out, in which stability was restored and substantial contributions made towards economic and political development, in U.N. missions in Kosovo, Sierre Leone and East Timor. What these examples illustrate is the importance of getting the mandate ''right,'' matching the mission to the mandate, ensuring adequate staffing and funding, and providing for a transition to a sustained peace.

U.S. officials have endorsed Secretary General Annan's proposal for a Peacebuilding Commission and Support Office to undertake post-conflict transition and coordinate donor assistance and activities. But has a global audit of existing peacekeeping missions ever been conducted to review mandates and right-size missions? Has there been an examination of whether peacekeeping tasks could be outsourced to professional private security companies to perform tasks more cost-effectively or deploy into difficult situations where Member States have demonstrated a reluctance or inability to go? What are we doing to widen the donor support base for peacekeeping missions? And finally, what should the United States do if necessary reforms are not being implemented, either by the U.N. or by troop contributing nations?

In this regard, I have introduced legislation, The Trafficking Victims Protection Reauthorization Act of 2005, H.R. 972, which contains several provisions specifically targeted at preventing trafficking in persons, sexual exploitation, and abuse by military personnel and in peacekeeping operations. H.R. 972 would require the State Department to certify to Congress, before it contributes U.S. logistical or personnel support to a peacekeeping mission, that the international organization has taken appropriate measures to prevent the organization's employees, contractors, and peacekeeping forces from engaging in trafficking in persons or committing acts of illegal sexual exploitation. The provision builds on two prior laws I have authored to combat trafficking in persons and reduce sexual exploitation, the Trafficking Victims Protection Act of 2000 and the Trafficking Victims Protection Reauthorization Act of 2003.

Other measures in this bill to combat sexual exploitation and trafficking in persons by military and peacekeepers are: Amending the U.S. Uniform Code of Military Justice to prohibit the use or facilitation of persons trafficked for sex or labor; Establishing a Director of Anti-Trafficking Policies in the Office of the Secretary of Defense; Reporting of steps taken by the U.N., OSCE, NATO and other international organizations to eliminate involvement of its personnel in trafficking; Requiring certification that safeguards are in place to prevent military and civilian personnel from trafficking or committing acts of sexual exploitation before a U.S. contribution to a peacekeeping mission is made.

In conclusion, the progress since our last hearing is encouraging, but we are only at the beginning of the necessary reform process. What comes out at the other end I hope will be a United Nations equipped for the unique challenges of this new century, with peacekeeping leading the way for reforms in other vital areas.

Thursday, May 19, 2005

Daily Digest

Highlights

The House received the United States Association of Former Members of Congress in the House Chamber.

The House passed H.R. 2361, Department of the Interior, Environment, and Related Agencies Appropriations Act for Fiscal Year 2006.

Senate

Chamber Action

Routine Proceedings, pages S5453–S5549

Measures Introduced: Fourteen bills and four resolutions were introduced, as follows: S. 1076–1089, S. Res. 149–151, and S. Con. Res. 35. **Pages S5531–32**

Measures Passed:

Baltic Countries Occupation: Senate agreed to S. Con. Res. 35, expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuana. **Pages S5547–48**

Victims of Communism Memorial: Senate agreed to S. Res. 150, expressing continued support for the construction of the Victims of Communism Memorial. **Page S5548**

Recognizing Israel's Independence Anniversary: Senate agreed to S. Res. 151, recognizing the 57th Anniversary of the Independence of the State of Israel. **Pages S5548–49**

Nomination Considered: Senate continued consideration of the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit. **Pages S5453–S5525**

A unanimous-consent-time agreement was reached providing for further consideration of the nomination at 9:30 a.m., on Friday, May 20, 2005. **Page S5549**

Nomination Referral—Agreement: A unanimous-consent agreement was reached providing that the nomination of Edmund S. Hawley, of California, to be an Assistant Secretary of Homeland Security be referred to the Committee on Commerce, Science, and Transportation and that further, upon the reporting out or discharge of the nomination, that the nomination be referred to the Committee on Homeland Security and Governmental Affairs for a period of not to exceed 30 days, after which time, the nomination, if still in the Committee, will be discharged and placed on the executive calendar. **Page S5547**

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting, pursuant to law, a report of the continuation of the national emergency protecting the Development Fund for Iraq and certain other property in which Iraq has an interest, and the Central Bank of Iraq, and to maintain in force the sanctions to respond to this threat; which was referred to the Committee on Banking, Housing, and Urban Affairs. (PM–11) **Page S5531**

Transmitting, pursuant to law, the 2005 Comprehensive Report on U.S. Trade and Investment Policy for Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act; which was referred to the Committee on Finance. (PM–12) **Page S5531**

Nominations Received: Senate received the following nominations:

Edmund S. Hawley, of California, to be an Assistant Secretary of Homeland Security.

1 Air Force nomination in the rank of general. **Page S5549**

Messages From the House: **Page S5529**

Measures Referred: **Page S5529**

Measures Placed on Calendar: **Page S5529**

Measures Read First Time: **Page S5529**

Executive Communications: **Pages S5529–31**

Additional Cosponsors: Pages S5532–33

Statements on Introduced Bills/Resolutions: Pages S5533–47

Additional Statements: Pages S5527–29

Notices of Hearings/Meetings: Page S5547

Authority for Committees to Meet: Page S5547

Adjournment: Senate convened at 9:30 a.m. and adjourned at 8:52 p.m. until 9:30 a.m., on Friday, May 20, 2005. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S5549.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS: EPA

Committee on Appropriations: Subcommittee on Interior and Related Agencies concluded a hearing to examine proposed budget estimates for fiscal year 2006 for the Environmental Protection Agency, after receiving testimony from Steven L. Johnson, Administrator, Environmental Protection Agency.

REGULATION NMS

Committee on Banking, Housing, and Urban Affairs: Committee concluded hearings to examine Regulation National Market System (NMS) designed to strengthen our national market system for equity securities, focusing on recent market developments, after receiving testimony from William H. Donaldson, Chairman, U.S. Securities and Exchange Commission.

BUSINESS MEETING

Committee on Energy and Natural Resources: Committee continued markup of proposed comprehensive energy legislation, focusing on provisions relating to Energy Efficiency and Electricity, but did not complete action thereon, and will meet again on Tuesday, May 24.

ENDANGERED SPECIES ACT

Committee on Environment and Public Works: Subcommittee on Fisheries, Wildlife, and Water concluded an oversight hearing to examine the implementation of the Endangered Species Act (Public Law 93–205), focusing on successes and shortcomings of the Act, and possible improvements to ensure species protection in the future, after receiving testimony from Senator Crapo; Craig Manson, Assistant Secretary of the Interior for Fish and Wildlife and Parks; James H. Lecky, Senior Advisor for Intergovernmental Programs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce; Robin M. Nazzaro, Director, Natural Resources and Environment, Government Accountability Office; John F. Kostyack, National Wildlife Federation, Jamie Rappaport Clark, Defenders of Wildlife, and Monita Fontaine, National Endangered Species Act Reform Coalition, all of Washington, D.C.; and Reed Hopper, Pacific Legal Foundation, Sacramento, California.

IRAN

Committee on Foreign Relations: Committee concluded hearings to examine weapons proliferation, terrorism and democracy in Iran, after receiving testimony from R. Nicholas Burns, Under Secretary of State for Political Affairs; and Geoffrey Kemp, The Nixon Center, Gary Milhollin, Wisconsin Project on Nuclear Arms Control, George Perkovich, Carnegie Endowment for International Peace, and Abbas William Samii, Radio Free Europe/Radio Liberty, all of Washington, D.C.

Also, committee met in closed session to receive a briefing on weapons proliferation, terrorism and democracy in Iran from officials of the intelligence community.

NOMINATION

Committee on Homeland Security and Governmental Affairs: Committee concluded a hearing to examine the nomination of Philip J. Perry, of Virginia, to be General Counsel, Department of Homeland Security, after the nominee, who was introduced by Senator Warner, testified and answered questions in his own behalf.

NOMINATIONS

Committee on Homeland Security and Governmental Affairs: Committee concluded a hearing to examine the nominations of Carolyn L. Gallagher, of Texas, who was introduced by Senator Cornyn, and Louis J. Giuliano, of New York, who was introduced by Senator Warner, each to be a Governor of the United States Postal Service, and Tony Hammond, of Virginia, to be a Commissioner of the Postal Rate Commission, who was introduced by Senator Bond, after the nominees testified and answered questions in their own behalf.

AMERICAN WORKFORCE

Committee on Health, Education, Labor, and Pensions: Committee met to discuss issues relating to higher education and corporate leaders, focusing on defining the roles industry and institutions of higher education will have to ensure that the United States has

the skilled and diverse workforce it will need to succeed today and in the future, after receiving testimony from Louis Caldera, University of New Mexico, Albuquerque; Robert Craves, Washington Education Foundation, Issaquah, Washington; Edward J. Hoff, IBM, Armonk, New York; Edison Jackson, Medgar Evers College—City University of New York, Brooklyn; Patricia McGuire, Trinity University, Washington, D.C.; James Mullen, Biogen Idec, Cambridge, Massachusetts; Walter Nolte, Casper College, Casper, Wyoming; Laura Palmer-Noone, University of Phoenix, Phoenix, Arizona; Charles B. Reed, California State University, Long Beach; and Patrick J. Sweeney, Odin Technologies, Reston, Virginia.

BUSINESS MEETING

Committee on the Judiciary: Committee resumed markup 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 recessed subject to the call.

House of Representatives

Chamber Action

Measures Introduced: 45 public bills, H.R. 2373–2517; and 7 resolutions, H. Con. Res. 159–162; and H. Res. 288–290 were introduced.

Pages H3693–94

Additional Cosponsors: **Pages H3694–96**

Reports Filed: Reports were filed today as follows: H.R. 2046, to amend the Servicemembers Civil Relief Act to limit premium increases on reinstated health insurance on servicemembers who are released from active military service, amended (H. Rept. 109–88). **Page H3693**

Recess: The House recessed at 9:03 a.m. and reconvened at 10:35 a.m. **Page H3559**

Reception in the House Chamber to Receive Former Members of Congress: The House recessed to receive the United States Association of Former Members of Congress in the House Chamber. Later, agreed to the Kingston motion that the proceedings had during the recess be printed in the Record.

Pages H3559–86

Department of the Interior, Environment, and Related Agencies Appropriations Act for Fiscal Year 2006: The House passed H.R. 2361, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, by a yea and nay vote of 329 yeas to 89 nays, Roll No. 199.

Pages H3589–H3675

Rejected the Obey motion to recommit the bill to the Committee on Appropriations with instructions to report the same promptly with an amendment, by a recorded vote of 191 ayes to 228 noes, Roll No. 198. **Pages H3674–75**

Agreed to limit the number of amendments made in order for debate and the time limit for debate on each amendment. **Pages H3614, H3633**

Agreed to:

Slaughter amendment that increases funding for the National Endowment for the Arts and the National Endowment for the Humanities (agreed to limit the time for debate on the amendment);

Pages H3614–20

Cubin amendment that increases funding for the Payments in Lieu of Taxes program (agreed to limit the time for debate on the amendment);

Pages H3620–23

Grijalva amendment (No. 17 printed in the Congressional Record of May 18) that increases and then decreases funding for employee travel expenses at the EPA; **Page H3640**

Gillmor amendment that replaces language in the section of the bill regarding State and Tribal Assistance Grants; **Page H3644**

Eddie Bernice Johnson of Texas amendment (No. 13 printed in the Congressional Record of May 18) that increases funding for the assessment and cleanup of Brownfield sites; **Pages H3644–46**

Taylor of North Carolina that increases funding for the National Forest System; **Page H3646**

Doolittle amendment that prohibits the use of funds for the Department of the Interior to implement the first proviso under the heading ''United States Fish and Wildlife Service—Land Acquisition;

Page H3663

Hastings of Florida amendment that prohibits the use of funds in contravention of Executive Order 12898 or to delay the implementation of that Order;

Pages H3663–64

Stupak amendment (No. 5 printed in the Congressional Record of May 18) that prohibits the use of funds to finalize, issue, implement, or enforce the

proposed policy of the EPA entitled National Pollutant Discharge Elimination System Permit Requirements for Municipal Wastewater Treatment During Wet Weather Conditions dated November 3, 2003; **Pages H3665–69**

Solis amendment that prohibits the use of funds for the Administrator of the EPA to accept, consider, or rely on third-party intentional dosing human studies for pesticides or to conduct intentional dosing human studies for pesticides; **Pages H3670–71**

Garrett amendment (No. 3 printed in the Congressional Record of May 17) that prohibits the use of funds to send or otherwise pay for the attendance of more than 50 Federal employees at any single conference occurring outside the U.S.; **Pages H3671–72**

Costa amendment that prohibits the use of funds for the Department of the Interior to enter into or renew any concession contract except a concession contract that includes a provision that requires that merchandise for sale at units of the National Park System be made in any State of the U.S., D.C., the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or the Commonwealth of the Northern Mariana Islands; and **Page H3672**

Rahall amendment (No. 1 printed in the Congressional Record of May 16) that prohibits the use of funds for the sale or slaughter of wild free-roaming horses and burros (by a recorded vote of 249 ayes to 159 noes, Roll No. 196). **Pages H3659–63, H3672–73**

Rejected:

Hefley amendment that sought to increase funding for the Payments in Lieu of Taxes program (agreed to limit the time for debate on the amendment) (by a recorded vote of 109 ayes to 311 noes, Roll No. 191); **Pages H3623–26, H3648**

Peterson of Pennsylvania enbloc amendment that sought to insert the word ''oil'' after the word ''offshore'' in section 104; and strike the words ''natural gas'' from sections 105 and 106 of the bill (agreed to limit time for debate on the amendment) (by a recorded vote of 157 ayes to 262 noes, Roll No. 192); **Pages H3626–31, H3649**

Terry amendment (No. 4 printed in the Congressional Record of May 17) that sought to increase funding the EPA's Hazardous Substance Superfund (by a recorded vote of 76 ayes to 344 noes, Roll No. 193); **Pages H3638–40, H3649–50**

Obey amendment that sought to increase funding for the Clean Water State Revolving Fund (by a recorded vote of 186 ayes to 235 noes, Roll No. 194); **Pages H3640–44, H3650–51**

Beauprez amendment (No. 6 printed in the Congressional Record of May 18) that sought to increase funding for the Forest Service to fight wildfires (by a recorded vote of 122 ayes to 298 noes, Roll No. 195); and **Pages H3646–48, H3651**

Hefley amendment (No. 11 printed in the Congressional Record of May 18) that reduces the bill's total discretionary spending by 1 percent (by a recorded vote of 90 ayes to 326 noes, Roll No. 197). **Pages H3664–65, H3673–74**

Withdrawn:

Tiahrt amendment (No. 8 printed in the Congressional Record of May 18) that was offered and subsequently withdrawn that sought to prohibit the use of funds to promulgate regulations without outside auditing to determine the authenticity of the scientific method used to develop such regulations. **Pages H3669–70**

Point of Order sustained against:

Wu amendment that sought to prohibit the use of funds to permit class III gaming activities under the Indian Gaming Regulatory Act on non-reservation Indian land; **Pages H3631–32**

Istook amendment (No. 14 printed in the Congressional Record of May 18) that sought to state that the bill's ban on funding for offshore oil and gas drilling activities in the eastern Gulf of Mexico would not apply if the Energy Information Administration publishes data demonstrating that the net imports of crude oil account for more than ⅔ of U.S. consumption; **Pages H3634–38**

Obey amendment that sought to insert a new section into Title II regarding Clean Water State Revolving Fund; **Page H3641**

Section beginning on page 67 line 17 with the words ''except that'' through line 22 at the word ''contaminants''; **Pages H3641–42**

Section on page 68 line 23 through page 69 line 3; **Page H3642**

Section beginning on page 69 line 19 with the word ''That'' through line 22 at the word ''further''; **Page H3642**

Section 413 of the bill regarding Government-wide administrative functions; **Page H3658**

Section of the bill beginning on page 121 line 11 with the words ''not withstanding'' through the comma on line 12; **Page H3658**

Section of the bill beginning on page 121 line 22 with the words ''not withstanding'' through the word ''laws'' on line 23; **Page H3658**

Section of the bill beginning on page 124 line 6 with the words ''not withstanding'' through the end of line 7; **Page H3658**

Section of the bill on page 124 line 15 through line 25; **Page H3658**

Chabot amendment (No. 7 printed in the Congressional Record of May 18) that sought to prohibit the use of funds for the designing or construction of forest development roads in the Tongass National Forest for the purpose of harvesting timber by private entities or individuals; and **Pages H3658–59**

Pombo amendment (No. 9 printed in the Congressional Record of May 18) that sought to allow funds in the bill for the Bureau of Land Management, Fish and Wildlife Service, National Park Service, and U.S. Geological Survey to be used only for programs that have been authorized before or after the date of enactment. **Page H3670**

H. Res. 287, 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 215 yeas to 194 nays, Roll No. 190. **Page H3594**

Meeting Hour: Agreed that when the House adjourn today, it adjourn to meet at 12:30 p.m. on Monday, May 23 for Morning Hour debate. **Page H3677**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, May 25. **Page H3677**

Presidential Message: Read a message from the President wherein he notified Congress of the continuation of the national emergency with respect to the Development Fund for Iraq, certain other property in which Iraq has an interest, and the Central Bank of Iraq—referred to the Committee on International Relations and ordered printed (H. Doc. 109–28). **Pages H3677–78**

Read a message from the President wherein he submitted a report on the 2005 Comprehensive Report on U.S. Trade and Investment Policy Towards Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act—referred to the Committee on Ways and Means and ordered printed (H. Doc. 109–29). **Page H3678**

Quorum Calls—Votes: Two yea-and-nay votes and eight recorded votes developed during the proceedings of today and appear on pages H3594, H3648, H3649, H3649–50, H3650–51, H3651, H3672–73, H3673–74, H3674–75, and H3675. There were no quorum calls.

Adjournment: The House met at 9 a.m. and adjourned at 10:08 p.m.

Committee Meetings

COMPETITIVENESS IN MATH AND SCIENCE

Committee on Education and the Workforce, Subcommittee on 21st Century Competitiveness, hearing entitled "Challenges to American Competitiveness in Math and Science." Testimony was heard from public witnesses.

DRUG FREE SPORTS ACT

Committee on Energy and Commerce: Subcommittee on Commerce, Trade, and Consumer Protection concluded hearings on H.R. 1862, Drug Free Sports Act. Testimony was heard from David Stern, Commissioner, National Basketball Association; William Hunter, Executive Basketball Players Associate; Paul Tagliabue, Commissioner, National Football League; and Gene Upshaw, Executive Director, National Football League Players Association.

FINANCIAL SERVICES REGULATORY RELIEF

Committee on Financial Services: Subcommittee on Financial Institutions and Consumer Credit held a hearing entitled "Financial Services Regulatory Relief: Private Sector Perspectives." Testimony was heard from public witnesses.

STEROID USE IN SPORTS

Committee on Government Reform: Held a hearing entitled "Steroid Use in Sports Part III: Examining Basketball Association's Steroid Testing Program." Testimony was heard from the following officials of the National Basketball Association: David Stern, Commissioner, and Richard W. Buchanan, Senior Vice President and General Counsel; William Hunter, Executive Director, National Basketball Players Association; Keith Jones, Athletic Trainer, Houston Rockets; and Juan Dixon, Player, Washington Wizards.

RECREATIONAL BOATERS STREAMLINED INSPECTION ACT

Committee on Homeland Security: Subcommittee on Economic Security, Infrastructure Protection, and Cybersecurity held a hearing on H.R. 1509, Recreational Boaters Streamlined Inspection Act. Testimony was heard from Representative Foley; Robert Jacksta, Executive Director, Border Security and Facilitation, Office of Field Operations, U.S. Customs and Border Protection, Department of Homeland Security; and a public witness.

REFORMING THE UNITED NATIONS

Committee on International Relations: Held a hearing on Reforming the United Nations: Budget and Management Perspectives. Testimony was heard from Mark P. Lagon, Deputy Assistant Secretary, Bureau of International Organization Affairs, Department of State; former Senator Timothy E. Wirth of Colorado and President UN Foundation; and Catherine Bertini, former Under Secretary-General, Management, United Nations.

The Committee also held a briefing on this subject. Testimony was heard from Mark Malloch Brown, Chief of Staff to the Secretary-General, United Nations.

OVERSIGHT—HIGH ENERGY COSTS

Committee on Resources: Subcommittee on Energy and Mineral Resources held an oversight hearing entitled ''The Impacts of High Energy Costs to the American Consumer.'' Testimony was heard from public witnesses.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ACT

Committee on Resources: Subcommittee on Fisheries and Oceans held a hearing on H.R. 50, National Oceanic and Atmospheric Administration Act. Testimony was heard from Representative Ehlers; VADM Conrad C. Lautenbacher, Jr., USN (Ret.), Under Secretary, Oceans and Atmosphere, Department of Commerce; and public witnesses.

ARCTIC NATIONAL WILDLIFE REFUGE DRILLING—BENEFITS SMALL BUSINESSES

Committee on Small Business: Subcommittee on Regulatory Reform and Oversight held a hearing on the benefits small businesses will receive if drilling is allowed in the Arctic National Wildlife Refuge. Testimony was heard from Representative King of Iowa; and public witnesses.

OVERSIGHT—TRANSITION FROM ACTIVE DUTY TO VETERANS' STATUS

Committee on Veterans' Affairs: Subcommittee on Oversight and Investigations held an oversight hearing regarding the Department of Veterans Affairs' and the Department of Defense's efforts to assist military personnel in making a ''seamless transition'' from active duty to veterans' status. Testimony was heard from Cynthia A. Bascetta, Director, Health Care—Veterans' Health and Benefits Issues, GAO; the following officials of the Department of Veterans Affairs: Brenda Faas, Social Worker, Veterans Health Administration; Linda Petty, Benefits Counselor, Veterans Benefits Administration; and John Brown, Director, Office of Seamless Transition; the following officials of the Department of Defense: MAJ Ladda Tammy Duckworth, USA, Patient, Walter Reed Army Medical Center; COL Gwendolyn Fryer, USA, Southern Regional Medical Command Military Liaison to James E. Haley Veterans Affairs Medical Center, Tampa, Florida; and COL Timothy Frank, USMC, Liaison Officer to the Secretary of Veterans Affairs; and a representative of a veterans organization.

AGING SOCIETY—RETIREMENT POLICY CHALLENGES AND OPPORTUNITIES

Committee on Ways and Means: Held a hearing on the Retirement Policy Challenges and Opportunities of our Aging Society. Testimony was heard from Douglas Holtz-Eakin, Director, CBO; Hal Daub, Chairman, Social Security Advisory Board; and public witnesses.

PATRIOT ACT

Permanent Select Committee on Intelligence: Concluded hearings on the PATRIOT Act, Part II. Testimony was heard from public witnesses.

COMMITTEE MEETINGS FOR FRIDAY, MAY 20, 2005

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings scheduled.

House

Committee on Government Reform, hearing entitled ''Declaration of Education: Toward a Culture of Achievement in D.C. Public School,'' 10 a.m., 2154 Rayburn.

Next Meeting of the **SENATE**

9:30 a.m., Friday, May 20

Senate Chamber

Program for Friday: Senate will continue consideration of the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

12:30 p.m., Monday, May 23

House Chamber

Program for Monday: To be announced.

Extensions of Remarks, as inserted in this issue

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