MORNING HOUR DEBATES

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

The Chair recognizes the gentleman from Florida (Mr. STEARNS) for 5 minutes.

CHINA'S UNDERVALUED CURRENCY

Mr. STEARNS. Mr. Speaker, since 1994 China has pegged its currency, the yuan, to the United States dollar. Many economists contend that for the first several years of this peg, the fixed value was likely close to market value, but in the past few years, economic conditions have changed, such that the yuan would likely have appreciated, like virtually every other currency, if its exchange rates were determined by simple market forces. This policy constitutes a form of currency manipulation and is intended to give China an unfair trade advantage. Also, it is contributing to the loss of United States manufacturing jobs.

China's currency is significantly undervalued vis-a-vis the United States dollar. Some experts contend that it is undervalued by as much as 40 percent, making Chinese exports to the United States cheaper and U.S. exports to China more expensive than they would be if market forces determined the exchange rates.

Furthermore, the undervalued currency has contributed to the large U.S.-China trade deficit with China. It has hurt United States production and employment in several U.S. manufacturing sectors, such as textiles and apparel industry, that are forced to compete domestically and internationally against artificially low-cost goods from China.

If the yuan is undervalued against the dollar, imported Chinese goods are cheaper than they would be if the yuan were market-driven. This lowers prices for United States consumers and diminishes inflationary pressures, but in turn, lower priced goods from China hurt U.S. industries that compete with those products, diminishing their production and eventually their employment. In addition, an undervalued yuan makes U.S. exports to China more expensive, thus diminishing the level of U.S. exports to China and job opportunities for U.S. workers in those particular sectors.

Pegging the yuan to the dollar has large implications for the United States-China trade. When a fixed exchange rate causes the yuan to be less expensive than it would be if it were floating, it causes Chinese exports to the United States to be relatively inexpensive and U.S. exports to China to be relatively expensive. As a result, U.S. exports and the production of U.S. goods and services that compete with Chinese imports fall in the short run. Many of the affected firms are in the manufacturing sector. This causes the U.S. trade deficit to soar, to rise, and reduces aggregate demand in the short run.

Mr. Speaker, in 2004, China became the United States' second largest supplier of imports. A large share of China's exports to the United States are labor-intensive consumer goods such as toys and games, textiles and apparel, shoes, and consumer electronics. Because the manufacturing of these products have, over the past several years, shifted overseas, many of these exports do not compete directly with the United States domestic producers.

However, there are a number of small- and medium-sized firms, including makers of machine tools, hardware, plastics, furniture, and tool and die that are concerned over the growing competitive challenge posed by China. An undervalued Chinese currency contributes to a reduction in the output of these industries.

In addition, the low value of the yuan is forcing other East Asian economies to keep the value of their currencies low vis-a-vis the U.S. dollar in order to compete with Chinese products, to the detriment of U.S. exporters and U.S. domestic industries competing against foreign imports.

Furthermore, while China is still a developing country, it has been able to accumulate a massive foreign exchange reserve, approximately $660 billion at the end of March, and thus, it has the resources to maintain the stability of its currency if it were fully convertible.

Appreciating the yuan would greatly benefit China by lowering the cost of imports for Chinese consumers and producers who have used imported parts and machinery.

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
Finally, China’s accumulation of large amounts of foreign exchange reserves in order to maintain the currency peg could be better spent on investment in infrastructure and development of poor regions in their country.

Recently, the Treasury Department issued a strongly worded report warning China over its pegging its currency to the dollar. The report called the Chinese currency peg highly distorting, but the report stops short of designating China as manipulating its currency for a trade advantage. This designation would have triggered formal negotiations between the Bush administration and Chinese officials that potentially could end this peg.

The administration has taken the right steps in taking a harder line against China. While I welcome the tough language in the Treasury Department report regarding China, Mr. Speaker, the time has come for China to accept that they must change the environment for keeping companies the confidence to succeed. We have an energy policy that punishes success instead of rewarding it. We have come up with burdensome regulations that keeps new companies from starting up. We have a litigation environment, by changing these rules and regulations, so that we can create new jobs, create new technology and prepare for the oncoming challenges of the future.

WE ARE HEADED TOWARDS A THIRD RATE ECONOMY

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

Mr. TIAHRT. Mr. Speaker, last year our budget deficit was $670 billion, our Federal budget deficit was about $300 billion, and our government made it more and more difficult last year to keep and create jobs here in America. Barriers have been created and erected by Congress, and the results have been the wrong environment for the current day economy.

The world is changing. The world is getting more and more technical, and we, as a country, are not measuring up, and we are headed towards a third rate economy.

What a third rate economy means to our national security, to the future of our children is rather startling, and it is something we need to start preparing today to change. We must change the environment for keeping and creating jobs here.

In 10 to 20 years from now, we are looking at countries like China, currently with 1.3 billion people, India with 1 billion people, add that to Southeast Asia, and they get a group of about 3 billion people. Currently, they are in talks with trying to create an Asian Union, similar to the European Union, with the yuan as the currency of choice. This would be a very strong economy. It would be very difficult for America, who currently has the strongest economy in the world and the envy of the world, to compete with that.

Last year, China graduated 350,000 engineers. India graduated 80,000 software engineers. They are preparing for the future.

Today, a columnist for MSNBC wrote an article called, “Can China build its own Silicon Valley? Beijing’s recipe for technological success.” In this article, China lays out what China’s doing in their Zhongguancun district to create an environment to develop new technological businesses. They have already quite a few small high-tech companies in that area, and they also have the prestigious Tsinghua University, which is creating a lot of research and development to go along with this world-class technology incubator.

They are also providing business support, venture capital, legal services, property management and health care. It is a total package, a culture, if you will, to try to develop new ideas. Dr. Meng Mei at the university said, “We need a culture that gives small companies the confidence to succeed.” It sounds like something we need to do here in America. What they are giving them is an infrastructure, an entrepreneurial infrastructure, so that they can go out and create new technology, driving the development that America has been doing for the last several decades. In China, the amount of money they spend on research and development has tripled between 1991 and 2001, according to the article. In the mean time we have been doing here in America over the last generation? Well, starting in the 1960s, Congress started writing more rules and regulations and passing laws with good intent but terrible consequences.

We have come up with burdensome regulations that keeps new companies from starting up. We have a litigation system that works against success. We have health care costs that are rising faster than small employers can keep up with. We have got a tax policy that punishes success instead of rewarding success. We have an energy policy that is dependent on foreign sources. We have a trade policy that too often goes unenforced, and our research and development dollars are spent in wasteful ways instead of looking forward to the future. Our education system, sadly, is lagging behind, especially in math, science and engineering.

At the end of this article, it says, “While the number of U.S. science and engineering graduates declines, year after year, China’s numbers are surging. China already graduates more English-speaking electrical engineers than does the U.S. Last month the U.S. came in 7th in an annual international collegiate programming contest; a team from Shanghai University came in first. And U.S. middle school math and science scores continue to lag behind those of other developed Nations.”

We are on a path to a third rate economy that has worldwide implications for our future, for our kids, for our national security, and we have to change that environment.

This is the debate that we should be having today on the floor of the United States House of Representatives. This is how we are going to create the environment, by changing these rules and regulations, so that we can create new jobs, create new technology and prepare for the oncoming challenges of the future.

RECESS

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

Accordingly (at 12 o’clock and 43 minutes p.m.), the House stood in recess until 2 p.m. today.

AFTER RECESS

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

PRAYER

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

Lord God, when Your servant Moses came down from Mount Sinai, he carried the two stone tablets of Your commands. Struck by Your awesome presence, he bowed down to the ground in worship. Then he said: “If I find favor with you, O Lord, do come along and be in our company. Indeed, this is a stiff-necked people; yet pardon our wickedness and our sins and take us as Your very own.”

Today, in America, O Lord, facing the image of Moses before us in this Chamber, we are again struck by Your presence. We pray that You be in our company now, Pardon our sins, because we too can be a stiff-necked people. Truly take us as Your own. Make of us a strong and virtuous Nation, a people truly set apart to be Your hallmark of justice for all peoples and an instrument of peace in the world.

For You are gracious and merciful, slow to anger, rich in kindness and fidelity” both now and forever. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. KOLLENSBERG led the Pledge of Allegiance.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced...
that the Senate has agreed to a concur-
rent resolution of the following titles: S. Con. Res. 35. Concurrent resolution ex-
pressing the sense of Congress that the Gov-
ernment 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 coun-
ties of Estonia, Latvia, and Lithuania.

The message also announced that pursuant to section 1928a–1929d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the following Senators to the Senate Delegation to the NATO Par-
liamentary Assembly during the One Hundred Ninth Congress: the Senator from Alabama (Mr. Ses-
sions), the Senator from Wyoming (Mr. Enzi), the Senator from Kentucky (Mr. Bunning), the Senator from Minnesota (Mr. Cole-
am). TRIBUTE TO DR. BETTY SIEGEL
(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 rise in honor of Dr. Betty Siegel, president of Kennesaw State University in Georgia. After 23 years of service to the University, Dr. Siegel will be retiring at the end of the year, and what an amazing 23 years it has been for her and for the students of Kennesaw State.

Back in 1981, Betty Siegel made head-
lines and chose the path less traveled when she became the first woman ever to serve as president in the 34-school university system of Georgia. Today, she makes headlines for all she has ac-
complished.

Under her leadership, KSU has grown tremendously, from a 4,000-student col-
lege offering 15 bachelor’s degree pro-
grams and no graduate programs to today, with 18,000 students choosing from over 55 undergraduate and graduate programs.

The KSU slogan, “Dare to Dream,” is epitomized by Dr. Betty Siegel in every imaginable way. Not only does she lead by example, but she instills every stu-
dent with that motto.

So let me say thank you to Dr. Siegel. Thank you for daring to dream and thank you for daring to do all you have done to improve the lives of your students.

IT IS TIME FOR VOTES ON JUDICIAL NOMINEES
(Mr. WILSON of South Carolina asked and was given permission to ad-
dress the House for 1 minute and to re-
view and extend.) Mr. WILSON of South Carolina. Mr. Speaker, Senator Jim DeMINT pub-
lished an excellent op-ed in The State newspaper yesterday that the Senate has an obligation to ensure timely up-
and-down votes for all nominees, re-
gardless of who is President or which party is in power.

Ensuring that our courthouses are filled with well-qualified judges is one of the most important responsibilities of the U.S. Senate. As Senator DeMINT notes, the majority of Americans trust the Senate’s judgment on judicial nominees, and it is unfair for a minor-
ity of Senators to ignore the will of the American people. If the minority’s case against these nominees is so strong, they should be able to convince other Senators to oppose the nominees during a fair up-and-down vote.

This week, Majority Leader BILL FRIST will lead the Senate to vote on the constitutional option, which will restore a 200-year tradition to ensure that each nominee receives a fair vote. After years of debate on this topic, it is time for the Senate to follow the will of the American people.

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

FISCAL LEADERSHIP
(Ms. FOXX asked and was given per-
mission to address the House for 1 minute and to revise and extend her re-
marks.) Ms. FOXX. Mr. Speaker, I rise to praise the President and Republicans in this Congress for working to strengthen the economy and cut unnec-
essary spending. This is not rocket science or advanced economics. When we leave more money in the hands of citizens, the economy thrives.

Case in point: 274,000 new jobs were created in April. We have seen steady job gains for each of the last 23 months, and more Americans are work-
ing than ever before. In addition, our Federal deficit is forecast to be $50 bil-
lion lower than expected.

Clearly, the economy’s growth is a direct result of the pro-growth agenda of the President and this Congress. By holding the line on fiscal responsibility in the budget and passing pro-growth bills such as tax reform and the energy bill, Republican Members continue to show their commitment to America’s economy.

The House has begun the appro-
priations season with Republicans working hard to demonstrate responsible fiscal leadership. In our effort to give America back to the American people, Republicans have renegotiated the Homeland Secu-
rity’s budget so we can make sure these funds are not wasted and are used prop-
erly.

This Congress and this President are working hard and doing great work. Unfortunately, not enough focus is being put on the positive things hap-
pening in this Congress and our country.

Let us not squander this opportunity to keep stepping in the right direction.

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

Record votes on postponed questions will be taken after 8:30 p.m., today.

STOP COUNTERFEITING IN MANUFACTURED GOODS ACT
Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 32) to amend title 18, United States Code, to provide criminal penal-
alties for trafficking in counterfeit marks, as amended.

The Clerk read as follows:

H.R. 32
Be it enacted by the Senate and House of Rep-
resentatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE. FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the “Stop Counterfeiting in Manufactured Goods Act”.

(b) FINDINGS.—The Congress finds that—

(1) the United States economy is losing millions of dollars in lost revenue and tens of thousands of jobs because of the manufac-
ture, distribution, and sale of counterfeit goods;

(2) the Bureau of Customs and Border Pro-
tection estimates that counterfeiting costs the United States $200 billion annually;

(3) counterfeit automobile parts, including break pads, cost the auto industry alone bil-
lions of dollars in lost sales each year;

(4) counterfeit products have invaded nu-
umerous industries, including those producing auto parts, electrical appliances, medicines, tools, toys, office equipment, clothing, and many other products;

(5) ties have been established between counterfeiting and terrorist organizations that use the sale of counterfeit goods to raise and launder money;

(6) ongoing counterfeiting of manufactured goods poses a widespread threat to public health and safety; and

(7) strong domestic criminal remedies against counterfeiting will permit the United States to seek stronger antcounterfeiting provisions in bilateral and international agreements with trading partners.

SEC. 2. TRAFFICKING IN COUNTERFEIT MARKS.
Section 2390 of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by inserting after “such goods or services” the following: “, or intentionally traffics or attempts to traffic in labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, cans, cases, tags, tags, documentation, or packaging of any type or na-
ture, knowing that a counterfeit mark has been applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive,”.

(2) Subsection (b) is amended to read as follows:

“(B) Any property used, in any manner or in any way, to import, consign, sell, loan, rent, dispose of, or to possess, move to suspend the rules and pass the bill (H.R. 32) to amend title 18, United States Code, to provide criminal penal-
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ture, knowing that a counterfeit mark has been applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive,”.

(2) Subsection (b) is amended to read as follows:

“(B) Any property used, in any manner or in any way, to import, consign, sell, loan, rent, dispose of, or to possess, move
to any seizure or civil forfeiture under this section. At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States, shall destroy or otherwise dispose of any counterfeit mark bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law.

(3)(A) The court, in imposing sentence on a person convicted of an offense under this section, shall order, in addition to any other sentence imposed, that the person forfeit to the United States—

(i) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as the result of the offense;

(ii) any of the person's property, or intended to be used, in any manner or part, to commit, facilitate, aid, or abet the commission of the offense; and

(iii) any article that bears or consists of a counterfeit mark used in committing the offense.

(B) The forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section. Notwithstanding section 413(h) of that Act, at the conclusion of the forfeiture proceeding, the court may order that any forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed.

(4) A person is convicted of an offense under this section, the court, pursuant to section 3556, 3663A, and 3664, shall order the person to pay restitution to the owner of the mark and any other victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii).

(5) As used in this section, documentation, or packaging of any type or nature that is applied to or used in connection with goods or services, or is a mark or designation applied to labels, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature that is used in connection with goods or services, or is a mark or designation used in connection with goods or services, of the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation.

(4) Section 2320—

(A) by redesigning subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

"(f) Nothing in this section shall entitle the United States to bring a criminal cause of action under section 3594 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of any offense under—

(1) section 1294 of title 17, United States Code; or

(2) section 2318 or 2320 of title 18, United States Code.

(b) AUTHORIZATION.—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

(c) RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall determine whether the definition of "infringement amount" set forth in application note 2 of section 2B5.3 of the Federal sentencing guidelines is adequate to address situations in which the defendant has been convicted of one of the offenses listed in subsection (a) and the item in which the defendant trafficked was not an infringing item but rather was intended to facilitate infringement, such as an anti-circumvention device, or the item in which the defendant trafficked, and also was intended to facilitate infringement in another good or service, such as a counterfeit label or documentation, or packaging, taking into account cases such as United States v. Sung, 87 F.3d 194 (7th Cir. 1996).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. Goodlatte) and the gentleman from California (Ms. Zoe Lofgren) each will control 20 minutes.

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent to yield the balance of the time to the chairman of the committee, the gentleman from Wisconsin (Mr. Sensenbrenner).

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

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 32, the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, I rise in support of H.R. 32, the STOP Counterfeiting in Manufactured Goods Act. This legislation will facilitate efforts by the Department of Justice to prosecute those who exploit the good names of companies by attaching counterfeit marks to substandard products.

This is a serious problem. Legitimate businesses work hard to build public trust and confidence in their products. When a legitimate company's name is attached to counterfeit products that are not authorized by the company to bear that name, the company suffers losses not only to its bottom line but to its reputation as well.

In addition, counterfeit products are often purchased unwittingly by consumers who have come to rely on the quality of the product by a company they know and trust. Instead, what they receive is a low-quality, often dangerous imitation. Some of these products have such poor imitations of the original that they have caused physical harm to consumers.

The FBI has identified counterfeit goods in a wide range of products, including, pharmaceuticals, automobile parts, airport parts, baby formulas, and children's toys. The U.S. automobile industry has reported a number of instances of brake failure caused by counterfeit brake pads manufactured from wooden chips. Counterfeits of over-the-counter medications, may have serious health consequences if they are used by an unsuspecting consumer.

Under this legislation, section 2320 of title 18 would be expanded to include penalties for those who traffic in counterfeit labels, symbols, or packaging of any type knowing that a counterfeit mark has been applied. Additionally, this legislation would require that evidence of any property obtained directly or indirectly from the proceeds of the violations as well as any property used or intended to be used in relation to the offense. The legislation also requires that restitution be paid to the owner of the mark which was counterfeited.

By mid-fiscal year 2003, the Department of Homeland Security had already reported 3,117 seizures of counterfeit goods, including cigarettes, books, apparel, hand bags, toys, and electronic games, with an estimated street value of $38 million. Fortune 500 companies are spending between $2 million and $4 million each year to fight counterfeiters.

The counterfeiting of manufactured goods produces staggering losses to businesses across the United States and around the world. Counterfeited products deprive the Treasury of tax revenues, add to the national trade deficit, subject consumers to health and safety risks, and leave consumers without any legal recourse when they are
Mr. GOODLATTE. Mr. Speaker, I thank the gentleman for yielding me this time and bringing this legislation to the floor, and I especially want to commend the gentleman from Michigan (Mr. KNOLENBERG) for his persistence in this matter.

Several years ago I had an opportunity to bring forward legislation which passed the House and was signed into law by President Clinton which significantly increased the authority of the U.S. Customs Service to deal with this problem. Up until that time, when counterfeit goods were discovered by Customs inspectors, all they could do was refuse to allow them into the country.

What happened was they would simply bring them around to another port and try again. Eventually, they would succeed, or they would send them to another market in the world and wreak havoc that these counterfeit goods do in terms of health and safety concerns and economics elsewhere in the world. That was changed so that now the Customs Service can seize and destroy these goods.

This is the next logical step to handling that. When the criminals bring these goods into this country and do not have the labels on them and escape liability because they have separated the labels from the counterfeit goods, that is obviously a loophole that needed to be plugged.

I commend the gentleman and the committee for offering this legislation. I urge my colleagues to adopt it.

Ms. ZOE LOPFREN of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. LEVIN), an original cosponsor of this bill.

Mr. LEVIN. Mr. Speaker, I am glad to join the gentleman from Michigan (Mr. KNOLENBERG) and all of the members of the committee who have worked on and supported this bill to make sure that it is targeted in the right direction and that it will be, indeed, effective.

We have an immense counterfeiting problem in this country. A lot of it occurs overseas outside of our shores, but a lot of it occurs right here in the United States. We need to do more about what is going on overseas. I heard on the radio coming in this morning that they are selling in China a counterfeit DVD of the new `Star Wars’ movie, and people here in the United States are waiting in line to get into the theater.

Here in the U.S. the counterfeiting problem has grown, and that was the inspiration for this bill. It has strung manufacturing in many respects. It has surely hurt the automobile industry, including the auto parts industry. Some estimates are that counterfeiting has cost the automotive parts industry over $12 billion in the last year. This is a time when that industry, as so many other parts of manufacturing, are having an immense challenge. They face an unlevel playing field. There is much talk in trade and competition about the need to level it, and there is nothing that rigs a field more than counterfeiting. That is the ultimate rigging.

This bill is an effort to get at this problem, to increase the sanctions, to ensure the ability of law enforcement to crack down.

Mr. Speaker, I hope there is unanimous support for this bill. There is surely bipartisan support. Again, we have been glad to work with the gentleman from Michigan (Mr. KNOLENBERG) and others on this, and we salute the Committee on the Judiciary, the majority and the minority, for taking this issue seriously and working out any problems and placing this bill on a path where it could be brought up today and, we hope, supported across the board.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. KNOLENBERG), the principal sponsor of this bill.

Mr. KNOLENBERG asked and was given permission to revise and extend his remarks.

Mr. KNOLENBERG. Mr. Speaker, I rise today in support of my bill, H.R. 32, the Stop Counterfeiting in Manufactured Goods Act. This legislation will help stop the scourge of counterfeit manufactured goods.

Let me thank the Committee on the Judiciary in its entirety, particularly the gentleman from Wisconsin (Chairman SENSENBRENNER) for all of his assistance, the subcommittee chairman, the gentleman from North Carolina (Mr. COBLE) and the gentleman from Texas (Mr. SMITH), and the majority leader for his leadership in bringing the bill to the floor today.

Most people understand that counterfeit goods is a problem, but many people do not understand how severe the problem is and how severe it has become. Counterfeiters are endangering consumers, are stealing jobs and money away from legitimate companies, destroying brand names and requiring costly investigations. The numbers are staggering, in addition to safety issues, and it has been mentioned about counterfeit auto parts, but they cost the automotive supplier over $12 billion annually. It has been estimated if these losses were eliminated, the industry could hire some 200,000 additional workers.

The impact of the counterfeiters affects almost every manufacturing industry in the country, including clothing, batteries, electronics and even pharmaceuticals. When it comes to the economy, the U.S. Customs Service has estimated the counterfeiting resulted in the loss of some 750,000 jobs and cost the U.S. around $20 billion annually. It is estimated almost 7 percent of world trade is counterfeit.

My bill has two key provisions that will help address the problem. The first provision is the most important. It requires the mandatory destruction and forfeiture of the equipment and materials used to make counterfeit goods.
Under current law, a convicted trademark counterfeiter is only required to give up the actual counterfeit goods, not the machinery used to make those goods. My bill would prohibit trafficking in counterfeit labels, patches, and medallions.

Passing this bill will send a signal to counterfeiters around the world that the U.S. will fight this growing problem. This bill will give prosecutors more tools to go after the criminals and punish them severely. This legislation will help stop the scourge of counterfeit manufactured goods. This legislation will help stop the scourge of counterfeit manufactured goods. Mr. Speaker, I rise today in support of my bill, H.R. 32—the “Stop Counterfeiting in Manufactured Goods Act.” This legislation will help stop the scourge of counterfeit manufactured goods.

Let me thank the Judiciary Committee, including Chairman CENSENBRER, Sub-committee Chairman COBLE and Sub-committee Chairman SMITH. They’ve all provided important leadership to bring this bill to the floor today. I’d also like to thank the leadership, including Majority Leader DELAY, for their help in getting this bill through the process.

The economy of my district is largely centered on the auto industry, particularly auto suppliers. In fact, my district includes the headquarters of over one-fourth of the 100 largest auto suppliers in North America, as well as a host of small suppliers.

To say that the manufacturing sector is important to my district and to the State of Michigan is an understatement. In my district alone, there are more than 1,500 manufacturing entities, and over 90 percent of them have less than 100 employees.

Most people understand that counterfeit goods are a problem. But many people don’t understand just how severe the problem has become.

Early last year, I was made aware of the serious and growing problem of counterfeit auto parts. The one thing I got from the counterfeiters making fake parts was the counterfeiters making fake parts. They’ve all been involved in making all sorts of fake parts including brake pads, spark plugs, old filters, and in one case even an entire car. I was struck by how large an impact counterfeiters are having on the auto industry.

The numbers, in fact, are staggering. In addition to the obvious safety issues, counterfeit automobile parts cost the automotive supplier industry over $12 billion annually. It’s estimated that if these losses were eliminated, and those sales were brought into legitimate companies, the auto industry could hire 200,000 additional workers. It’s important to remember those numbers, because counterfeiting is not a victimless crime.

In addition to selling bogus products, the counterfeitors are stealing jobs and money away from legitimate companies, destroying brand names, increasing warranty claims, and requiring legal fees and costly investigations.

The fight against counterfeiters is not limited to the automotive industry. The impact of counterfeiters is broad and affects just about every manufacturing industry in the country—including clothing, batteries, electronics, and even pharmaceuticals.

When it comes to the economy overall, the U.S. Customs Service has estimated that counterfeiting has resulted in the loss of 750,000 jobs and costs the United States around $200 billion annually. The International Chamber of Commerce estimates that seven percent of the world’s trade is in counterfeit goods and that the counterfeit market is worth $350 billion. We must provide more tools to fight counterfeiters, not only for the economy, but for the safety of our consumers.

My bill has two key provisions that will help stop criminals who use counterfeit trademarks. The first provision is the most important and gets at the root of the problem—it requires the mandatory destruction and forfeiture of the equipment and materials used to make the counterfeit goods.

Under current law, a convicted trademark counterfeiter is only required to give up the actual counterfeit goods, not the machinery used to make those goods. If we don’t take away the equipment used to make the fake goods, what’s to stop the criminals from going back to make more? My bill would require the convicted criminals to give up not just the counterfeit goods, but also the equipment they used to make them. This will help to dig up the counterfeiting networks by the roots.

In addition to this provision, my bill also prohibits trafficking in counterfeit labels, patches, and medallions.

Under current law, it is legal to make and sell these items if they are not attached to a particular counterfeit good. This just doesn’t make sense. Why would counterfeiters make these labels, if not for the chance at illegal profits?

This bill will send a signal to counterfeiters that the United States is serious about fighting this growing problem. Passing this bill will give prosecutors more tools to go after the criminals here in the U.S. and punish them severely.

This bill is also necessary to address the problem globally. Most of the counterfeit goods are being manufactured in other countries, particularly China. Some countries are better than others at fighting counterfeiting, but we need to have ways to prod the stragglers. However, we can’t demand that other countries take steps to curtail counterfeiting that we have not taken ourselves.

So, by passing my bill and improving our own law, Congress will empower our trade negotiators to press for stronger anti-counterfeiting provisions in other countries. We will show the world that the United States is serious about putting counterfeiters out of business for good.

This bill has broad support, including the U.S. Chamber of Commerce, the National Association of Manufacturers, the Motor and Equipment Manufacturers Association, the National Electrical Manufacturers Association, the IACC, International Trademark Association and a host of major associations and corporations.

As I have outlined, counterfeiting is a very serious worldwide problem that threatens public safety, hurts the U.S. economy and costs Americans thousands of manufacturing jobs. No one supports counterfeiters, and we must do everything we can to eliminate the problem.

For these reasons, Mr. Speaker, I respectfully urge my colleagues to support H.R. 32, the Stop Counterfeiting in Manufactured Goods Act, and I yield back the remainder of my time.

Mr. CONYERS. Mr. Speaker, I rise in support of this legislation and thank the Chairman and his staff for working with us to ensure the bill does not overreach.

The bill was designed to target illegitimate actors who trade in counterfeit marks. We all know that manufacturers want to ensure that fake goods are not marketed in their names and that their own goods are not marketed under fake names.

The bill as originally written, however, could have been construed by some as going further than that. It left as an open question whether someone other than the manufacturer could affix marks to goods that correctly identify the source of the goods. This ambiguity could have had a negative impact on the parallel market, in which third parties lawfully obtain goods and make them available in discount stores. Not only has this practice been upheld by the Supreme Court, but it also saves consumers billions of dollars each year.

Fortunately, H.R. 32 was amended in the full committee pursuant to an amendment offered by Representative WEXLER to clarify that the legislation is not intended to be relied upon as a weapon against the secondary discount marketplace to the detriment of American consumers—consumers dependent upon the price options and product availability afforded by alternative sources of genuine goods.

In particular, H.R. 32 was amended to specifically protect lawful repackaging of genuine goods by ensuring that any such third party repackaging, not intended to deceive or confuse, is specifically saved from criminal prosecution under this Act. The Committee specifically agreed that combining single genuine products into gift sets, separating combination set of genuine goods into individual items for resale, inserting coupons into original packaging or repackaging items, affixing labels to track or otherwise identify genuine products and removing genuine goods from original packaging for customized retail displays were not covered by the legislation as they provide important value to American consumers—consumers dependent as a weapon against the secondary discount marketplace to the detriment of American consumers—consumers dependent upon the price options and product availability afforded by alternative sources of genuine goods.

I urge a “yes” vote on this legislation. Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this legislation that concerns such an important matter that affects interstate commerce as referenced in Article I, Section 8 of the United States Constitution. The Committee on the Judiciary rightly exercised oversight over the issue of counterfeiting products and conspiring to commit retail theft, and I applaud the gentleman from Michigan for having crafted legislation that has garnered bipartisan support.

Similar legislation, namely H.R. 3632, the “Anti-Counterfeiting Amendments Act of 2003” in the 108th Congress, passed under suspension of the rules and became law, and I supported it. That measure regulated the trafficking of certain security components of products, for example, Certificates of Authenticity (COA). Now that it has become law, piracy of these security markers, which are the source of each product’s value, will be discouraged by way of criminal consequences.
Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RADANOVICH). The question is on the motion offered by the gentleman from California, Mr. LOFGREN, that the House suspend the rules and pass the bill (H.R. 744) to amend title 18, United States Code, to discourage spyware, and for other purposes, as amended.

The Clerk read as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Spyware (I-Spy) Prevention Act of 2005.

SEC. 2. PENALTIES FOR CERTAIN UNAUTHORIZED ACTIVITIES RELATING TO COMPUTERS.

(a) Whoever intentionally accesses a protected computer without authorization, or exceeds authorized access to a protected computer, by causing a computer program or code to be copied onto the protected computer, and intentionally uses that program or code in furtherance of another Federal criminal offense shall be fined under this title or imprisoned not more than 5 years, or both.

(b) Whoever intentionally accesses a protected computer without authorization, or exceeds authorized access to a protected computer, by causing a computer program or code to be copied onto the protected computer, and by means of that program or code—

(1) intentionally obtains, or transmits to another, personal information with the intent to defraud or injure a person or cause damage to a protected computer; or

(2) intentionally impairs the security protection of the protected computer with the intent to defraud or injure a person or damage a protected computer shall be fined under this title or imprisoned not more than 2 years, or both.

(c) No person may bring a civil action under the laws of any State if such action is commenced in whole or in part upon the defendant’s violating this section. For the purposes of this subsection, the term "State" includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.

(d) As used in this section—

(1) the term "authorized computer" and "exceeds authorized access" have, respectively, the meanings given those terms in section 1030; and

(2) the term "personal information" means—

(A) a first and last name;
The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

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

Mr. Speaker, I rise today in support of H.R. 744, the Internet Spyware Prevention Act of 2005. This legislation clarifies and enhances criminal penalties and provides additional tools to prosecute and deter those who utilize spyware and phishing schemes to engage in illegal behavior online.

Since its inception, the Internet has been transformed from an obscure research tool into an electronic medium of unprecedented reach. The impressive growth of the Internet has been facilitated by technology that has customized the online experience of Internet users. However, the same software and technology innovations that have enhanced and personalized usage of the Internet can also provide opportunities for privacy violations and criminal behavior.

This bill establishes strong criminal penalties for those who engage in online criminal behavior using spyware programs. The various schemes that are based on violations of this new legislation enhance criminal penalties for those who obtain personally identifiable information, including a Social Security number or other government-issued identification number or a bank or credit card number or other government-issued but not protected credit card number with the intent to defraud or injure a person or cause damage to a protected computer.

The bill also authorizes appropriations for the Justice Department to crack down on spyware, phishing, and other online schemes.

As we consider this legislation, Congress must be mindful that there is no single legal regulatory or technological silver bullet to end spyware or phishing. Greater consumer awareness and utilization of commercially available countermeasures are part of the solution. Congressional efforts to curb spyware and phishing are most likely to succeed if we focus on deterring and prosecuting illegal and abusive online behavior, rather than imposing burdensome requirements upon a medium whose growth can largely be attributed to the refusal of the Federal Government to heavily regulate it.

H.R. 744 does not impose a new statutory regime. Rather, it clarifies and enacts a new legal framework that dictates the appearance of a computer's user screen, nor does it degrade the online experience by requiring that Internet users be bombarded with incessant notices. Most importantly, it does not represent a heavy-handed government mandate that may present a greater danger to the Internet than it seeks to correct. Rather, the bill preserves and promotes the integrity of the Internet by increasing criminal penalties for those who engage to engage in abusive and illegal online activities.

Targeted legislation tailored to address illegal online activity rather than an invasive regulatory regime with unknown consequences represents the right approach to addressing the problems associated with spyware and phishing. Congress ratified this approach by passing substantially similar legislation last Congress by a vote of 415-0. I would like to thank the gentlewoman from Virginia (Ms. GOODLATTE), the author and lead proponent of H.R. 744 for his leadership on this issue. I urge my colleagues to support this legislation.

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

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

Mr. Speaker, I am proud to have partnered with the gentleman from Virginia (Mr. GOODLATTE) on this legislation, H.R. 744, the Goodlatte-Lofgren I-SPY bill. Spyware is quickly becoming one of the biggest threats to consumers on the Internet. It is one of the fastest growing schemes here in the United States in this country. Thieves are using spyware to harvest personal information from unsuspecting Americans. Criminals are even using spyware to track every keystroke an individual makes, including credit and Social Security numbers. Spyware is at least partially responsible for approximately one-half of all application crashes reported to them. Experts estimate that as many as 80 to 90 percent of all personal computers contain some form of spyware.

Last year, Earthlink identified more than 29 million spyware programs. In short, spyware is a very real problem that is endangering consumers, damaging businesses and creating millions of dollars of additional costs. I am proud to be a party to H.R. 744, this bi-partisan measure, because it identifies the truly unscrupulous acts associated with spyware and subjects them to criminal punishment.

This bill is unique, however, because it focuses on behavior rather than technology. It targets the worst forms of spyware without unduly burdening technological innovation. Why is this important? We know that innovation goes faster than legislation. It is important for us to try to fix the development of legislation in time. Instead, we need to focus on misbehavior, not technology, so that technology innovation can continue to move as rapidly as it does and yet the American consumer and businesses can be protected.

It is important, and this is an issue that there was some question about and I think we can answer quite easily. It is important to note that H.R. 744 does not prevent existing or future state laws which prohibit spyware. This bill only preempts civil actions that are based on violations of this new Federal criminal law in State courts.

H.R. 744 also gives the Attorney General the money he needs to find and prosecute spyware offenders. And, finally, it expresses the sense of Congress that the Department of Justice should vigorously pursue online phishing scams in which criminals send fake e-mail messages to consumers on behalf of famous companies and request personal information that is later used to conduct criminal activities.

Spying and spyware are not just an inconvenience to consumers. They represent a direct threat to the vitality of the Internet itself because if people cannot trust the Internet, they will not utilize Internet commerce.

I would like to note that I also serve on the Committee on Homeland Security, and we are well aware that phishing to the extent that it yields information is a direct threat to the Internet itself. As we seek to protect the Nation from terrorism. So what we are doing here today is important for consumers, it is important for business, it is important for the future of our high-tech economy, and it is important for the security of the Nation. I would urge my colleagues to take a stand for the continued vitality of the Internet and again pass this bill unanimously.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin (Mr. GOODLATTE), the principal author of the bill.

Mr. GOODLATTE. Mr. Speaker, I rise in strong support of the Internet Spyware I-SPY Prevention Act and thank the gentleman from Wisconsin, the chairman of the committee, for moving this legislation to the floor. This bipartisan legislation which I was pleased to introduce with the gentlewoman from California (Ms. LOFGREN) will impose tough criminal penalties on the truly bad actors without imposing a broad regulatory regime on legitimate online businesses. I believe that this targeted approach is the best way to combat spyware.

Specifically, this legislation would impose up to a 5-year prison sentence on anyone who uses software to intentionally break into a computer and uses that software in furtherance of another Federal crime. In addition, it would impose up to a 2-year prison sentence on anyone who uses spyware to intentionally break into a computer and either alter the computer's security settings or obtain personal information with the intent to defraud or injure a person or with the intent to damage a computer.

In addition to strong penalties, enforcement is crucial in combating spyware. The I-SPY Prevention Act authorizes $10 million for fiscal years 2006.
through 2009 to be devoted to prosecutions and expresses the sense of Congress that the Department of Justice should vigorously enforce the law against spyware violations as well as against online phishing scams in which criminals send fake e-mail messages to consumers of online businesses to request account information and request account information that is later used to conduct criminal activities.

The bill also directs resources to the Department of Justice to combat pharming scams in which hackers intercept Internet traffic and redirect unknowing Internet users to fake Web sites where they often trick consumers into giving their account information and passwords.

I believe that four overarching principles should guide the consideration of any spyware legislation: first, we must punish the bad actors while protecting legitimate online companies; second, we must not overregulate but, rather, encourage innovative new services and the growth of the Internet; third, we must not stifle the free market; and, fourth, we must target the behavior, not the technology.

The targeted approach of the I-SPY Prevention Act will protect consumers by punishing the bad actors without imposing liability on those that act legitimately online. In addition, this legislation will avoid excessive regulation such as one-size-fits-all notice and consent prescriptive style imposed by the Federal Government. A targeted approach will avoid red tape that hampers the creation of new and exciting technologies and services on the Internet.

By encouraging innovation, the I-SPY Prevention Act will help ensure that consumers have access to cutting-edge products and services at lower prices. Increasingly, consumers want a seamless interaction with the Internet, and we must be careful to not interfere with businesses’ ability to respond to this consumer demand with innovative services. The I-SPY Prevention Act will help ensure that consumers, not the Federal Government, define what their interaction with the Internet looks like.

As we move forward, I look forward to continuing to work with all stakeholders to further ensure that bad actors are punished while legitimate businesses are protected including working with the Department of Justice which has expressed an interest in working with our office on this issue. In addition, technological solutions are crucial in winning the fight against spyware. As the spyware debate continues, I look forward to working to ensure that antispyware technologies are fostered and that they are not subjected to frivolous lawsuits from spyware providers.

I urge my colleagues to support this important legislation.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield myself such time as I may consume.

I would just note that the House will be considering at least two items having to do with spamming and phishing and the like today. Certainly we hope to move this issue forward. I strongly believe that the approach that this bill takes, which is targeting behavior instead of rewarding those on the soundest footing; and I hope that in the end as we sort through the various approaches that that will be our guide to protect technology innovation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I support the provisions that have been introduced by my colleague from California, Representative LOFGREN as well as the Gentleman from Virginia, Representative GOODLATTE. It amends the federal computer fraud and abuse statute to make it a clear offense to access a computer without authorization or to intentionally exceed authorized access by causing a computer program or code to be copied onto the computer and using that program or code to transmit or obtain personal information (for example, first and last names, addresses, telephone numbers, Social Security numbers, drivers license numbers, or bank or credit account numbers).

Furthermore, H.R. 744 authorizes appropriations for those crimes and discourages the practice of ‘phishing.’ As we all know too well, there is simply becoming one of the biggest threats to consumers on the information superhighway. Spyware encompasses several potential risks including the promotion of identity theft by harvesting personal information from consumer’s computers. Additionally, it can adversely affect businesses, as they are forced to spend additional time and money to reduce and remove spyware from employees’ computers, in addition to the potential impact on productivity.

Spyware has been defined as “software that aids in gathering information about a person or organization without their knowledge and which may send such information to another entity with the consumer’s consent, or asserts control over a computer with the consumer’s knowledge.” Among other things, criminals can use spyware to track each keystroke an individual makes, including credit card and social security numbers.

Some estimates suggest 25 percent of all personal computers contain some kind of spyware while other estimates show that spyware affects as many as 80–90 percent of all personal computers. Businesses are reporting several negative effects of spyware. Microsoft says evidence shows that spyware is “at least partially responsible for approximately one-half of all application crashes” reported to them, resulting in millions of dollars of unnecessary support calls.

Mr. Speaker, again, I am strongly in support of the legislation.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield back the balance of my time.

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

SECURELY PROTECT YOURSELF AGAINST CYBER TRESPASS ACT

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass H.R. 29 to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 29

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 “Securely Protect Yourself Against Cyber Trespass Act” or the “Spy Act.”

SECTION 2. PROHIBITION OF [UNFAIR OR DECEPTIVE ACTS OR PRACTICES RELATING TO SPYWARE.]

(a) Prohibition.—It is unlawful for any person, who is not the owner or authorized user of a protected computer, to engage in unfair or deceptive acts or practices that involve any of the following conduct with respect to the protected computer:

(1) Taking control of the computer by—

(A) utilizing such computer to send unsolicited information or material from the computer to others;

(B) diverting the Internet browser of the computer, or similar program of the computer used to access and navigate the Internet—

(i) without authorization of the owner or authorized user of the computer; and

(ii) away from the site the user intended to view, to one or more other Web pages, such that the user is prevented from viewing the content at the intended Web page unless such diverting is otherwise authorized;

(C) accessing, hijacking, or otherwise using the modem, or Internet connection or service, for the computer thereby causing damage to the computer or causing the owner or authorized user or a third party defrauded by such conduct to incur charges or other costs for a service that is not authorized by such owner or authorized user;

(D) using the computer as part of an activity performed by a group of computers that causes damage to another computer; or

(E) delivering advertisements that a user of the computer cannot close without undue acknowledgment but without turning off the computer or closing all sessions of the Internet browser for the computer;

(2) Modifying settings related to use of the computer or to the computer’s access to or use of the Internet by altering—

(A) the Web page that appears when the owner or authorized user launches an Internet browser or similar program used to access and navigate the Internet;

(B) the default provider used to access or search the Internet, or other existing Internet connections settings;

(C) a list of bookmarks used by the computer to access Web pages; or

(D) any security or other settings of the computer that protect information about the owner or authorized user for the purposes of...
(3) Collecting personally identifiable information through the use of a keystroke logging function of such program; and

(4) Inducing the owner or authorized user of the computer to disclose personally identifiable information by means of a Web page that—

(A) is substantially similar to a Web page established or provided by another person; and

(B) misleads the owner or authorized user that such Web page is provided by such other person.

(5) Inducing the owner or authorized user to install a separate component of computer software onto the computer, or preventing reasonable efforts to block the installation or execution of, or to disable, a component of computer software by—

(A) presenting the owner or authorized user with an option to decline installation of such a component such that, when the option is selected by the owner or authorized user or when the owner or authorized user reasonably attempts to decline the installation, the installation nevertheless proceeds; or

(B) misrepresents the computer software that the owner or authorized user has properly removed or disabled to automatically reinstall or reactivate on the computer.

(6) That the installing a separate component of computer software or providing log-in and password information is necessary for security or privacy reasons, or that installing a separate component of computer software is necessary to open, view, or play a particular type of content.

(7) Inducing the owner or authorized user to indicate that the computer software by misrepresenting the identity or authority of the person or entity providing the computer software to the owner or user.

(8) Providing the owner or authorized user to provide personally identifiable, password, or account information to another person—

(A) by misrepresenting the identity of the person seeking the information; or

(B) without the authority of the intended recipient of the information.

(9) Removing, disabling, or rendering inoperable a security, anti-spyware, or anti-virus technology installed on the computer.

(10) Installing or executing on the computer one or more additional components of computer software with the intent of causing a person to use such components in a way that violates any other provision of this section.

(b) GUIDANCE.—The Commission shall issue guidance regarding compliance with and violations of this section. This subsection shall take effect upon the date of the enactment of this Act.

(c) EFFECTIVE DATE.—Except as provided in subsection (b), this section shall take effect upon the expiration of the 6-month period that begins on the date of the enactment of this Act.

SEC. 3. PROHIBITION OF COLLECTION OF CERTAIN INFORMATION WITHOUT NOTICE AND CONSENT.

(a) OPT-IN REQUIREMENT.—Except as provided in subsection (e), it is unlawful for any person—

(1) to transmit to a protected computer, which is not owned by such person and for which such person is not an authorized user, any information collection program, unless—

(A) such information collection program provides notice in accordance with subsection (b) of the transmission of any of the information collection functions of the program; and

(b) such information collection program includes the functions required under subsection (d); or

(2) to execute any information collection program installed on such a protected computer unless—

(A) before execution of any of the information collection functions of the program, the owner or authorized user of the protected computer has consented to such execution pursuant to notice in accordance with subsection (c); and

(B) such information collection program includes the functions required under subsection (d).

(b) INFORMATION COLLECTION PROGRAM.—

(1) IN GENERAL.—For purposes of this section, the term “information collection program” means computer software that performs one or more of the following functions:

(A) COLLECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—The computer software—

(i) collects personally identifiable information; and

(ii)(I) sends such information to a person other than the owner or authorized user of the computer, and

(II) uses such information to deliver advertising to, or display advertising on, the computer.

(B) COLLECTION OF INFORMATION REGARDING WEB PAGES VISITED TO DELIVER ADVERTISING.—The computer software—

(i) collects information regarding the Web pages accessed using the computer; and

(ii) uses such information to deliver advertising to, or display advertising on, the computer.

(2) EXCEPTION FOR SOFTWARE COLLECTING INFORMATION REGARDING WEB PAGES VISITED WITHIN A PARTICULAR WEB SITE.—Computer software that is substantially similar to a Web page that—

(A) is substantially similar to a Web page within that particular Web site;

(B) includes the functions required under paragraph (1); and

(C) The notice provides for the user to select to display on the computer, before execution of any function referred to in subparagraph (A) without granting or denying such consent.

(3) CHANGE IN INFORMATION COLLECTION.—The computer software—

(A) before execution of any of the information collection functions of the program, the owner or authorized user has granted consent; or

(B) before execution of any of the information collection functions of the program, the owner or authorized user has denied consent.

(4) Inducing the owner or authorized user to—

(A) grant or deny consent using the option required under subparagraph (A), (B), or (C) of subsection (b) of this section.

(b) INFORMATION COLLECTION PROGRAM.

(c) NOTICE AND CONSENT.

(1) OVERALL REQUIREMENT.—It shall be unlawful for any person—

(A) to transmit to a protected computer, which is not owned by such person and for which such person is not an authorized user, any information collection program, unless—

(i) the provider of the Web site accessed; or

(ii) a party authorized by the owner or user to facilitate the display or functionality of Web pages within the Web site accessed; and

(C) The notice provides for the user to select to display on the computer using such information is advertising on Web pages within that particular Web site.

(2) NOTICE AND CONSENT.—

(A) The notice clearly distinguishes such software from any other information visually transmitted the program shall provide an option under subparagraph (D) of this subsection by means of a single notice that includes the functions required in paragraphs (1)(A) and (2)(A) of subsection (a) may be met with respect to a protected computer together with a notice comprising notice of an information collection program that first executes any of the information collection functions of the program together with the first execution of the information collection program that is substantially similar to a Web page that is a computer software that is an information collection program.

(B) The notice provides for consent display advertising to, or display advertising on Web pages within that particular Web site.

(c) NOTICE AND CONSENT.—

(1) IN GENERAL.—Notice in accordance with this subsection with respect to an information collection program shall be in accordance with paragraph (1) of this subsection by means of a single notice that includes the functions required in paragraphs (1)(A) and (2)(A) of subsection (a) may be met with respect to a protected computer together with a notice comprising notice of an information collection program that first executes any of the information collection functions of the program together with the first execution of the information collection program that is substantially similar to a Web page that is a computer software that is an information collection program.

(2) NOTICE AND CONSENT.—

(A) The notice clearly distinguishes such software from any other information visually transmitted the program shall provide an option under subparagraph (D) of this subsection with respect to each such information collection program.

(3) NOTICE AND CONSENT.—If an owner or authorized user has granted consent to execution of an information collection program pursuant to a notice in accordance with this subsection:

(A) In GENERAL.—No subsequent such notice is required, except as provided in subparagraph (B).

(B) SUBSEQUENT NOTICE.—The person who transmitted the program shall provide another notice in accordance with this subsection and obtain consent before such program may be used to collect or send information of a type or for a purpose that is materially different from, and outside the scope of, the type or purpose set forth in the initial or any previous notice.

(d) REGULATIONS.—The Commission shall issue regulations to carry out this subsection.

(d) REQUIRED FUNCTIONS.—The functions required under this subsection to be included in an information collection program that includes the functions required in paragraphs (1)(A) and (2)(A) of subsection (a) with respect to a protected computer are as follows:
(1) DISABLING FUNCTION.—With respect to any information collection program, a function of the program that allows a user of the program to remove the program or disable operations of the program with respect to such protected computer by a function that—
(A) is easily identifiable to a user of the computer; and
(B) can be performed without undue effort or knowledge by the user of the protected computer.

(2) PROPERTY FUNCTION.—
(A) IN GENERAL.—With respect only to an information collection program that uses information collected in the manner described in subsection (1)(a), (1)(b), or (1)(c) of this section, a function of the program that provides that each display of an advertisement directed or displayed using such information, when the owner or authorized user is accessing a Web page or online location other than of the provider of the computer software, is accompanied by the name of the information collection program, a logogram or trademark used for the exclusive purpose of identifying the program, or a statement or other information sufficient to clearly identify the program.

(B) EXEMPTION FOR EMBEDDED ADVERTISEMENTS.—The Commission shall, by regulation, except from the application of subparagraph (A) of this section to the extent that the carrier, telecommunications carrier, a provider of information, when the owner or authorized user for an update of, addition to, or service provided, in good faith, to a user for a computation or service, or a protected computer, is authorized to use such software, solely to determine whether the user of the computer by a provider of computer software for the detection or prevention of fraudulent diagnostics, technical support, or repair, or for network or computer security purposes, shall not be liable under this Act to the extent that the carrier, telecommunications carrier, or provider, or provider of information service or interactive computer service, to the extent that such monitoring or interaction is for network or computer security purposes, establishes that such act is unfair or deceptive.

(3) RULEMAKING.—The Commission may issue rules to carry out this subsection.

(c) GOOD SAMARITAN PROTECTION.

(A) IN GENERAL.—No person other than the Attorney General of a State may bring a civil action under the law of any State if such action is premised in whole or in part on the defendant violating any provision of this Act.

(B) PROTECTION OF CONSUMER PROTECTION LAWS.—This paragraph shall not be construed to limit the enforcement of any State consumer protection law by any other person.

SECTION 5. LIMITATIONS.

(a) LAW ENFORCEMENT AUTHORITY.—Sections 2 and 3 shall not apply to—
(1) any action, suit, or proceeding by a law enforcement agent in the performance of official duties; or
(2) the transmission or execution of an information collection program in compliance with a law enforcement, investigatory, national security, or regulatory agency or department of the United States or any State in response to a request or demand made under authority granted to that agency or department, including a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, a court order, or other lawful process.

(b) EXCEPTION RELATING TO SECURITY.

Nothing in this Act shall be construed to preempt the applicability of—
(A) State trespass, contract, or tort law; or
(B) other State laws to the extent that those laws relate to acts of fraud.

SECTION 6. EFFECT ON OTHER LAWS.

(a) PREEMPTION OF STATE LAWS.—

(1) IN GENERAL.—This Act supersedes any provision of a statute, regulation, or rule of a State or political subdivision of a State that expressly regulates computer software that is installed on the equipment of any person other than the manufacturer or retailer of computer equipment.

(2) ADDITIONAL PREEMPTION.—

(A) IN GENERAL.—No person other than the Attorney General of a State may bring a civil action under the law of any State if such action is premised in whole or in part on the defendant violating any provision of this Act.

(B) PROTECTION OF CONSUMER PROTECTION LAWS.—This paragraph shall not be construed to limit the enforcement of any State consumer protection law by any Attorney General of a State.

(3) PROTECTION OF CERTAIN STATE LAWS.—

This Act shall not be construed to preempt the applicability of—
(A) State trespass, contract, or tort law; or
(B) other State laws to the extent that those laws relate to acts of fraud.

SECTION 7. ANNUAL FTC REPORT.

For the 12-month period that begins upon the effective date under section 12(a) and for each 12-month period thereafter, the Commission shall submit a report to the Congress that—

(1) specifies the number and types of actions taken during such period to enforce this Act; and

(2) describes the administrative structure and personnel and other resources committed by the Commission for enforcement of this Act during such period.

Each report under this subsection for a 12-month period shall be submitted not later than 90 days after the expiration of such period.

SECTION 8. FTC REPORT ON COOKIES.

(a) IN GENERAL.—Not later than the expiration of the 6-month period that begins on the date of the enactment of this Act, the Commission shall submit a report to the Congress regarding the use of cookies, including tracking cookies, in the delivery or display of advertising to the owners and users of computers. The report shall examine and describe the methods by which cookies and the Web sites that place them on computers function separately and in combination, and shall compare the use of cookies with the use of information collection programs (as such term is defined in section 3) to determine the extent to which such uses are similar or different. The report may include such recommendations as the Commission considers
necessary and appropriate, including treatment of cookies under this Act or other laws.

(b) Definition.—For purposes of this section, the term "tracking cookie" means a cookie or data file delivered by or in conjunction with one or more Web sites to transmit or convey, to a party other than the intended recipient, personally identifiable information of a computer owner or authorized user, information regarding Web pages accessed by the owner or user, or information regarding advertisements previously delivered to a computer, for the purpose of—

(1) delivering or displaying advertising to the owner or user;

or

(2) listing the intended recipient to deliver or display advertising to the owner, user, or others.

(c) Effective Date.—This section shall take effect on the date of the enactment of this Act.

SEC. 9. FTC REPORT ON INFORMATION COLLECTION PROGRAMS INSTALLED BEFORE EFFECTIVE DATE.

Not later than the expiration of the 6-month period that begins on the date of the enactment of this Act, the Commission shall submit a report to the Congress on the extent to which there are installed on protected computers information collection programs (including data file programs) that were effective date under section 12(a), would be subject to the requirements of section 3. The report shall include recommendations regarding affordingscreening computer users affected by such information collection programs the protections of section 3, including recommendations regarding requiring a one-time notice and consent by the owner or authorized user of a computer to the continued collection of information by such a program so installed on the computer.

SEC. 10. REGULATIONS.

(a) In General.—The Commission shall issue the regulations required by this Act not later than the expiration of the 6-month period beginning on the date of the enactment of this Act. In exercising its authority to issue any regulation under this Act, the Commission shall determine that the regulation is consistent with the public interest and the purposes of this Act. Any regulations issued pursuant to this Act shall be issued in accordance with section 553 of title 5, United States Code.

(b) Effective Date.—This section shall take effect on the date of the enactment of this Act.

SEC. 11. DEFINITIONS.

For purposes of this Act:

(1) CABLE OPERATOR.—The term "cable operator", when used with respect to information and for purposes only of section 3(b)(1)(A), does not include obtaining of the information by a party that is intended by the owner or authorized user of a protected computer to receive the information or by a third party authorized by such intended recipient to receive the information, pursuant to the owner or authorized user of the computer;

(A) transferring the information to such intended recipient using the protected computer; or

(B) storing the information on the protected computer in a manner so that it is accessible by such intended recipient.

(3) COMPUTER; PROTECTED COMPUTER.—The terms "computer" and "protected computer" have the meanings given such terms in section 1030(e) of title 18, United States Code.

(4) COMPUTER SOFTWARE.—

(A) In General.—Except as provided in subparagraph (B), the term "computer software" means a set of statements or instructions that can be installed and executed on a computer for the purpose of bringing about a certain result.

(B) Exception.—Such term does not include computer software that is placed on the computer system of a user by an Internet service provider, interactive computer service provider, web site, or in any other manner, enabling the user subsequently to use such provider or service to access such Web site.

(5) COMMISSION.—The term "commission" means the Federal Trade Commission.

(6) DAMAGE.—The term "damage" has the meaning given such term in section 1332(e) of title 18, United States Code.

(7) DECEPTIVE ACTS OR PRACTICES.—The term "deceptive acts or practices" has the meaning applicable to such term for purposes of section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(8) DISABLE.—The term "disable" means, with respect to an information collection program, to permanently prevent such program from executing any of the functions described in section 3(b)(1) that such program is otherwise capable of executing (including by removing, deleting, or disabling the program), unless the operator of a protected computer takes a subsequent affirmative action to enable the execution of such functions.

(9) INFORMATION COLLECTION FUNCTIONs.—The term "information collection functions" means, with respect to an information collection program, the functions of the program described in subsection (b)(1) of section 3.

(10) INFORMATION SERVICE.—The term "information service" has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(11) INTERACTIVE COMPUTER SERVICE.—The term "interactive computer service" has the meaning given such term in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230).

(12) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any successor protocol to such protocol, to communicate information of all kinds by wire or radio.

(13) PERSONALLY IDENTIFIABLE INFORMATION.—

(A) In General.—The term "personally identifiable information" means the following information, to the extent that such information allows a living individual to be identified from that information:

(i) First and last name of an individual.

(ii) A home or other address of an individual, including street name, name of a city or town, and zip code.

(iii) An electronic mail address.

(iv) A telephone number.

(v) A social security number, tax identification number, passport number, driver's license number, or any other government-issued identification number.

(vi) A credit card number.

(vii) Any access code, password, or account number, other than an access code or password transmitted by an owner or authorized user of a computer or in any other manner, enabling the intended recipient to register for, or log onto, a Web page or other Internet service or a network connection or service of a subscriber that is protected by an access code or password.

(viii) Date of birth, birth certificate number, or place of birth of an individual, except in the case of normal types of information collected or solicited for the purpose of compliance with law.

(B) Rulemaking.—The Commission may, by rulemaking, add to or delete from information described in paragraph (A) that shall be considered personally identifiable information for purposes of this Act, except that such normal types of information shall be considered personally identifiable information only to the extent that such information allows living individuals, particular computers, particular computer users, or particular email addresses or other locations of computers to be identified from that information.

(14) SOURCE OF FUNCTIONALLY RELATED SOFTWARE.—The term "source of functionally related software" means a group of computer software programs distributed to an end user by a single provider, which programs are necessary to enable features or functionalities of an integrated service offered by the provider.

(15) TELECOMMUNICATIONS CARRIER.—The term "telecommunications carrier" has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(16) TRANSMIT.—The term "transmit" means, with respect to an information collection program, transmission by any means.

(17) WEB PAGE.—The term "web page" means a location, with respect to the World Wide Web, that has a single Uniform Resource Locator or another single location with respect to the Internet, as the Federal Trade Commission may prescribe.

(18) WEB SITE.—The term "web site" means a collection of Web pages that are presented and made available by means of the World Wide Web as a single Web site (or a single Web page so presented and made available), which Web pages have any of the following characteristics:

(A) A common domain name.

(B) Common ownership, management, or registration.

SEC. 12. APPLICABILITY AND SUNSET.

(a) Effective Date.—Except as specifically provided otherwise in this Act, this Act shall take effect upon the expiration of the 12-month period that begins on the date of the enactment of this Act.

(b) Applicability.—Section 3 shall not apply to an information collection program implemented on a protected computer before the effective date under subsection (a) of this section.

(c) Sunset.—This Act shall not apply after December 31.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentlewoman from Illinois (Ms. SCHRACKOWSKY) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and insert extraneous material in the RECORD.

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

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.
Mr. Speaker, today the House will consider legislation to prohibit Internet spying. Spyware is a growing danger to Internet users and one that demands our immediate attention. Recent statistics indicate that spyware is on the rise, with the highest areas of growth in Trojans, keystroke loggers and system monitors, the worst-of-the-worst spyware technologies.

The Committee on Energy and Commerce has worked expeditiously this Congress to move anti-spyware legislation through the committee for consideration by the House. This legislation is largely the same as H.R. 2929 from the 108th Congress, a bill that passed the House by a vote of 399-1. It is my hope that H.R. 29 will receive a similar endorsement today on this floor.

The changes that have been made to the SPY ACT since the last Congress are of two general types. The Committee on Energy and Commerce worked hard, not only to take into account legitimate and benign business functions, as well as standard functionalities of the Internet while preserving meaningful consumer notice and consent. The committee has also continued to strengthen the anti-fraud provisions of the bill by giving the Federal Trade Commission better enforcement tools against the ever-increasing types of fraudulent behavior associated with Internet spying.

The legislation that we are considering today, number one, prohibits unfair and deceptive practices like home page hijacking, keystroke logging, and Web-based phishing; two, provides for a prominent opt-in for consumers prior to the collection of personally identifiable information by monitoring spyware. This is a very, very important provision of the bill. Three, provides for a prominent opt-in for consumers prior to the collection of information regarding Web pages accessed and the subsequent advertising of services and products based on that information; four, requires that monitoring software be easily disabled at the direction of the consumer; five, requires companies that are sending ads to computers to identify with each ad the information collection program that is generating the ad. With this disclosure, consumers will know who is bombarding them with ads and will be able to make decisions about those pieces of software according to their wishes.

The process was thorough, open to all concerns; and, most importantly, the work was organized around the goal of creating a strong and effective consumer protection bill. I believe we have accomplished our goal.

Spyware is software that has tracking capabilities so pervasive that it can record every keystroke computer users enter. It can take pictures of personal computer screens. It can snatch personal information from consumers’ hard drives. People can see their bank account numbers, passwords, and other personal information stolen because they quite innocently went to a bad Web site or clicked a misleading agreement. Spyware is a serious threat to consumer privacy and potentially a powerful tool for identity theft, a serious crime that is on the rise. Spyware is a nonpartisan issue. As we learned last year while taking pictures of personal household word, spyware is a household phenomenon.

America Online recently released a study which found that 80 percent of families with broadband access had spyware on their computers. Earthlink found that in 3 million scans of computers, there was an average of 26 instances of spyware on each and every computer. With those kinds of numbers, spyware will soon be a part of everyone’s vocabulary.

Technological advances have brought the world into our homes, and the purveyors of spyware have interpreted that as an open door to come in whenever they want, whether invited or not. Still, because the software does have shady purposes, it usually comes in through the back door of consumers’ computers. Because consumers do not know that spyware is on their computers, people are still surprised to hear about it. They experience the noticeable effects of the software, impossibly slow computers, hijacked home pages, unstoppable pop-ups, but they do not know where their problems are coming from or what is going on behind the scenes.

For instance, someone’s computer may be sluggish because she may unwittingly have downloaded a program that records keystrokes entered and passes it on to a third party who wants to steal bank account numbers and passwords. The explosion of pop-up
ads may be because a program has been tracking a consumer’s every move on the Web. Serious privacy and security issues are at stake here. Spyware could be a major contributor to the fact that identity theft is the fastest-growing financial crime in America.

The time has come for a bill like the Spy Act. The gentleman from Texas (Chairman Barton) very clearly outlined the specific provisions of the bill, but it bears briefly repeating. The Spy Act ensures that consumers are protected from the truly bad acts and actors while also protecting proconsumer functions of the software. It prohibits indefensible uses of the software like keystroke logging or the copying of every keystroke entered. Additionally, it gives the consumer the choice to opt in to the installation or activation of information collection programs on their computers, but only when they know exactly what information will be collected and what will be done with it. Furthermore, the Spy Act gives the Federal Trade Commission the power it needs on top of laws already in place to pursue deceptive uses of the software. The Spy Act puts the control of computers and privacy back in consumers’ hands, and I am very glad I was a part of the process that brought this bill to the floor today.

So, again, I thank my colleagues for their work on this proconsumer, proprivacy, and bipartisan legislation, and I urge all Members to support it.

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

Mr. Barton of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. Stearns), subcommittee chairman.

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

Mr. Stearns. Mr. Speaker, I thank the gentleman from Texas (Mr. Barton), and I also thank the gentleman from Texas (Chairman Stein), and I appreciate the gentleman from New York (Mr. Towns) for his support. I can only heartily agree with all that has been said. Let me just add a few words.

Spyware has changed the computing experience for so many people. Increasingly, consumers are finding that their home Web pages have changed, that their computers are sluggish; and they get, as I said, the pop-up ads that will not go away no matter how many times they try to close them. They find software in their computer they did not install and cannot uninstall; and their computers are no longer their own, and they cannot figure out why. And consumers tend to blame viruses on their old computer or their Internet service providers, but because spyware is bundled with software people do want to download or because it is drive-by downloaded from unknowingly visiting the wrong Web site, people do not know that in many cases the real cause of their headaches is spyware.

A number of the above examples can be written off as merely annoying. Spyware is so much more than merely annoying, as we have pointed out, and there are these serious privacy and security issues at stake. These problems of slow computers and pop-up ads are just symptoms of the real trouble spyware can cause. Again, the software is so resourceful that it can snatch personal information from computer hard drives and store every Web site visited and log every keystroke entered.

Spyware is a serious threat to consumer privacy and potentially a powerful tool for identity theft, a serious crime on the rise. As the FTC, the Federal Trade Commission, reports, in 2003 there were nearly 10 million Americans victimized by identity theft. Over the past 5 years, there have been 27 million victims, and my State of Illinois is in the top 10 for identity theft occurrences. On-line predators, like spyware thieves, have expanded their access to personally identifiable information that can be used to steal people’s identities and put them at greater risk of...
being financially and otherwise victimized.

So this is now the time, once again, for the House to pass this important bipartisan legislation. And I too want to thank all of the leaders who have been involved in bringing this bill once again to the floor. I want to particularly thank the gentleman from Michigan (Mr. Dingell), whose statement, though he could not be here today, will be in the Record, and the gentleman from New York (Mr. Towns), who has worked tirelessly on this legislation from the very beginning with the gentlewoman from California (Mrs. Bono). And I want to thank the staff on our side, Diane Beedle and Consuela Washington, and the Republican staff for their hours of work.

I want to join the gentleman from Florida (Chairman Stearns) in urging our Senate colleagues to move on this very important legislation. It is time that we not only pass it in the House, but that we pass it in the Senate, and I look forward to seeing that happen in the near future. I thank my colleagues for the opportunity to work with all of them.

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

Mr. Barton of Texas. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Palm Springs, California (Mrs. Bono), the author of the original bill who knows more about these types of issues than anybody on the committee.

Mrs. Bono. Mr. Speaker, I want to thank the gentleman from Texas for yielding me this time.

The gentleman from Texas (Chairman Barton) has been a steadfast leader and advocate for spyware legislation. He has worked tirelessly on this important issue. I appreciate his efforts in bringing H.R. 29 to the floor. I also extend appreciation to the gentlewoman from Michigan (Mr. Dingell), ranking member; the gentleman from Florida (Chairman Stearns); the gentlewoman from Illinois (Ms. Schakowsky), ranking member; and the gentleman from New York (Mr. Towns), the original Democratic cosponsor. Each of them, as well as their staff, David Cavicke, Shannon Jacquot, Consuela Washington, Chris Leahy, Diane Beedle, Andy Delia, Dave Grimaldi; as well as my staffs, Jennifer Bartel and Chris Lynch, have all worked diligently over the past 2 years to improve and refine this legislation.

I would also like to thank the industry participants and consumer groups who have contributed hundreds of comments to this legislation. I am confident that we have drafted a bill that incorporates several improvements that will empower consumers without impeding the growth of technology or on-line business models.

In the wake of recent data security breaches by ChoicePoint, DSW, LexisNexis, and other companies, consumers are finally realizing the importance of data security and their vulnerability to identity theft. While consumers are waking up to these risks, many continue to remain unaware of the consequences of having spyware programs on their computers. Spyware is software that downloads onto one's computer that collects personally identifiable information such as Social Security numbers, credit card numbers, addresses, and phone numbers. This software passes personal information on to third parties without consent, or it is used to track the consumer's online behavior. In short, it compromises personal data and can physically harm their computer.

Just how prolific is this problem? Here are a few of the staggering statistics: In a recent study by Webroot, the company identified at least one form of an unwanted program in 87 percent of the personal computers it scanned. Results from a consumer spy audit in 2005 found that 88 percent of personal computers were infected with an average of 25 different spyware programs in each computer. In March, 2005, alone, a research system identified over 4,000 Web sites within nearly 90,000 total associated Web pages containing some form of spyware. Trojan horse infections grew by 30 percent since last year.

Mr. Speaker, this is not just a problem; it is an outright epidemic. As this Nation continues to push towards a global e-commerce marketplace, spyware stands to undermine the security and integrity of e-commerce and data security. Daily Web activities by consumers have become stalking grounds for computer hackers through spyware.

Consumers regularly and unknowingly download software programs that have the ability to track their every movement. And I want to point out that consumers consented to these spyware downloads, the National Cyber Security Alliance and AOL found that 89 percent of users had no idea they had spyware on their computers. Moreover, there are Web sites and e-mail messages that deliberately trick computer users into downloading spyware.

In response to the rapid proliferation of spyware, the gentleman from New York (Mr. Towns) and I introduced H.R. 29. This bill prohibits such behavior by specifically outlawing Web hijacking, keystroke logging, drive-by downloads, phishing, evil-twin attacks and, several other perverse behaviors.

The concept of H.R. 29 is simple: tell consumers in plain English what personally identifiable information is going to be collected and how that information is going to be used. Consumers have a right to know and have a right to decide who has access to such highly personal information. This reform recognizes that Congress pass this legislation and empower consumers while not impeding the growth of technology.

Earlier we heard my colleagues from the Committee on the Judiciary bring up their bill and talk about targeting behavior and not technology. I would ask them, what is Kazaa? Is Kazaa behavior or technology? What is Bonzi Window? Again, is it technology or behavior? I disagree. I say it is a terrible, terrible business practice, and it needs to be recognized by Congress. We need to stamp this out.

Mr. Speaker, I urge my colleagues to support H.R. 29.

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

Mr. Speaker, I would like to read into the Record the companies and the organizations that support H.R. 29. This is with letters on the Record where they have written to me and the gentleman from Michigan (Mr. Dingell) that they support the legislation: the Business Software Alliance; the Center for Democracy and Technology; the Council For Marketing and Opinion Research; Dell Corporation; DoubleClick, Incorporated; and ValueClick, Incorporated; eBay, Incorporated; Fidelity; Humana; Microsoft; 180 Solutions; the Recording Industry of America; Time Warner/AOL; United States Telecom Association; Webroot Software, Incorporated; WhenU; and Yahoo. These companies all officially on the record support H.R. 29.

Mr. Speaker, I think as the debate has shown, there is broad bipartisan support for this. There is also a need for this. I have spoken with Senator Burns of the other body. He is preparing to move a companion bill. We have also obviously talked to the gentleman from Wisconsin (Chairman Sensenbrenner) and the subcommittee chairman, the gentleman from Virginia (Mr. Goodlatte), on their bill; and we are prepared to work with them to merge the bills at the appropriate time.

This is an issue whose time has come. Almost every American household now has a personal computer, and almost every one of those computers has spyware on them; and in most cases the owner of that computer does not know it. It is time to put a stop to that foolishness. It is time to say enough is enough. It is time to pass H.R. 29, work with the other body to pass a companion bill, go to conference, create a compromise bill, and then send the bill to the President’s desk.

So I would encourage a ‘yes’ vote, Mr. Speaker, and before I yield back, compliment you on your work on this. I think we should say the gentleman from California (Mr. Radanovich) also has been tireless in his support for the bill.

Mr. Dingell. Mr. Speaker, identity theft is fast reaching epidemic proportions. Today we
and Representatives BONO and TOWNES, the Commerce, Trade, and Consumer Protection, Member, respectively of the Subcommittee on colleagues to vote the House floor. The SPEAKER pro tempore (Mr. RALPH RAUGUST) is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 29, as amended.

The question was taken.

Mr. BARTON of Texas. Mr. Speaker, I yield the balance of my time.

The SPEAKER pro tempore (Mr. RALPH RAUGUST) is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 29, as amended. The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BARTON of Texas. Mr. Speaker, on that I demand the yeas and nays.

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

HEROES EARNED RETIREMENT OPPORTUNITIES ACT

Mr. SAM JOHNSON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1499) to amend the Internal Revenue Code of 1986 to allow a deduction to members of the Armed Forces serving in a combat zone for contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1499
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 "Heroes Earned Retirement Opportunities Act".

SEC. 2. COMBAT ZONE COMPENSATION TAKEN INTO ACCOUNT FOR PURPOSES OF DETERMINING LIMITATION AND DEDUCTIBILITY OF CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Subsection (f) of section 219 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) SPECIAL RULE FOR COMPENSATION EARNED BY MEMBERS OF THE ARMED FORCES FOR SERVICE IN A COMBAT ZONE.—For purposes of subsections (b) and (c), the amount of compensation includible in an individual's gross income shall be determined without regard to section 122.",

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

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

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1499. This bill is supported by my Democratic colleagues. We acknowledge fully the work of our military personnel who continue to perform for our Nation. We honor their bravery and their sacrifice. Therefore, let us do without this effort by this Congress to make it possible for these men and women to take advantage of every tax benefit.
that is available to them, including saving for their retirement.

H.R. 1499, as my colleague and friend, the gentleman from Texas (Mr. SAM JOHNSON), has said, would allow our servicemen and -women to treat their compensation, received while serving in combat, as nontaxable income in order to help them meet the income eligibility retirement for making contributions to an individual retirement account.

At a recent hearing of our committee, two of our five witnesses highlighted the large shortfall in retirement savings many of our workers in this country face. I am sure that many members of the military fall within this group. This bill is a small step in the right direction of closing that gap.

Other larger steps need to be taken. For example, Democratic Members of this Congress are hopeul that we can work with our Republican colleagues to preserve another tax benefit that may be of even greater help to many military families. A provision in current law would permit military families to treat combat pay as taxable compensation for purposes of claiming the Earned Income Tax Credit. This provision is set to expire at the end of this year.

The EITC is a refundable credit many low- and middle-income taxpayers can claim when they file their Federal tax returns. Eligible families may claim a portion of their credit ratably during the year. The EITC helps to relieve the Federal tax burden on many families who are working full-time yet find themselves at or below the poverty level.

We had hoped that this provision could be included as part of the bill before us today to further help military families. However, we were assured that this provision will be taken up later in the year, and we will continue to push for the extension of this provision before it expires.

Also let me finish by expressing my hope and the hope of so many on my side of the aisle that this Congress and the administration will meet their responsibilities to our veterans on health, on re-employment, and so many other major needs of those in the military and the veterans of the United States of America.

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield such time as she may consume to the gentleman from North Carolina (Ms. FOXX), the author of the bill.

Ms. FOXX. Mr. Speaker, I want to thank the gentlemen from Texas and Michigan for their eloquent words on behalf of this bill. I am truly honored to be here today, Mr. Speaker. I am honored because the mere consideration of this bill represents the greatness of the American democracy in order to help our heroes defending America overseas.

At this time a year ago, I only dreamed of coming to the floor of this House and working for the people of the Fifth Congressional District in North Carolina. Here I am today promoting a bill I wrote to help those very constituents who deserve it most.

Just a few months ago, the father of Army Specialist Michael Hensley from my district in Clemmons, North Carolina, told me that his son and many of our other brave soldiers are facing. My constituent, Specialist Hensley, wanted to do the responsible thing by making the maximum allowable contribution to his individual retirement account. He found out that because of the nature of his wages, he would not be able to contribute to his nest egg this year. Thanks to the Republican leadership of this House and the bipartisan support from the minority, we stand here this afternoon to solve this problem.

Mr. Speaker, our current Tax Code wrongfully prohibits many of our brave men and women serving in combat zones from taking advantage of individual retirement accounts.

Most soldiers serving in these combat zones are paid in wages designated as military hazard pay. As deployment times have grown longer and longer, many soldiers now serve entire calendar years overseas, making their yearly compensation consist of hazard pay exclusively. These wages are not taxed; nor should they be. However, since this compensation is nontaxable, the wages are not eligible for IRA contributions. This is entirely unfair.

As we all know, IRAs are an excellent tool for responsible retirement savings, and responsible retirement savings should be encouraged for everyone, but especially for those who take up arms in war zones and fight for our freedom. The men and women defending America in harm’s way overseas should not be excluded from fully participating in the important retirement investment opportunity that IRAs provide because of a glitch in our Tax Code. H.R. 1499, the Heroes Earned Retirement Opportunities, or HERO Act, will correct this serious injustice. The HERO Act simply designates combat hazard pay earned by a member of the Armed Forces as eligible for contribution to retirement accounts.

The legislation, which is endorsed by the Reserve Officers Association and the Military Officers Association of America, would not actually tax these wages, it would merely allow them to be invested in the same retirement accounts available to all Americans.

To quote the Military Officers Association retirement account, letter of support for the bill, “This change makes perfect sense in view of all we are asking our service members to do in the War on Terror in Iraq, Afghanistan, and elsewhere.”

I could not have said it better myself.

Mr. Speaker, our heroes defending America overseas certainly deserve the same access to retirement savings that we receive. In fact, we should be encouraging and even facilitating retirement savings whenever possible. Americans need to take responsibility for and control of their retirement. Those responsible enough to save their hard-earned wages should be rewarded, not burdened with taxes and regulations.

I would also like to thank the gentlemen from California (Chairman THOMAS) for recognizing the importance of this bill and for expeditiously bringing it to the floor of this House.

I would also like to thank the gentleman from California (Chairman HUNTER) for his service to our Nation in Vietnam, for his excellent leadership of the House Committee on Armed Services, and for cosponsoring and supporting this great bill. His commitment to our troops is to be applauded.

A special thanks to the gentleman from Texas (Mr. JOHNSON) for his 29 years of service to our Nation, and for his leadership of this bill and his assistance in the Committee on Ways and Means to bring the bill to the floor.

Lastly, I would like to thank my staff members, especially Bob Foulke, and Deana Funderburk for their support and effort to get a good idea transformed to good legislation. I urge all of my colleagues to help right this fundamental wrong by voting for this straightforward, common-sense legislation.

Mr. LEVIN. Mr. Speaker, I thank the gentleman from Texas (Mr. SAM JOHNSON) for his leadership on this bill.

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Hero Act is going to help our combat troops by modifying a tax law that has had consequences, given their situation. Most of us know that IRA contributions are limited to $4,000 this year, and the cap on annual contributions will increase to $5,000 in 2008.

All of this is temporary legislation, but we would like to have it permanent, as well, I say to the gentleman from Michigan (Mr. LEVIN).

According to the Joint Committee on Taxation, this bill would provide $31 million of tax benefits to military families over the next decade. H.R. 1499 provides meaningful assistance to our troops that we can all support as the House considers ways to improve the retirement security for Americans.

I work on retirement legislation in my membership. On both the House Committee on Ways and Means and the House Committee on Education and the Workforce, and I look forward to meaningful legislation moving forward from both committees in the near future.

However, this legislation needs to move on its own as soon as possible. Our troops are earning combat pay in
dangerous situations, and to the extent that they can save some of it for their long-term needs. I think we ought to encourage them to do so.

We will pass this bill with no controversy, and I hope our colleagues in the other body follow suit in the near future. It is the right thing to do.

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

The SPEAKER pro tempore (Mr. GINGREY). The question is on the motion offered by the gentleman from Texas (Mr. JOHNSON) that the House suspend the rules and pass the bill, H.R. 1499, as amended.

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

The title of the bill was amended so as to read: “A bill to amend the Internal Revenue Code of 1986 to allow members of the Armed Forces serving in a combat zone to make contributions to their individual retirement plans even while on active duty, including service in a combat zone to make contributions to their individual retirement plans even while on active duty, including service in a combat zone.

In the case of a member of the Armed Forces serving in a combat zone, such contributions shall be treated as if made through a thrift savings plan, as such term is defined in section 501(d)(3) of the Internal Revenue Code of 1986, for the purpose of taking advantage of the additional organization of the Secretary of the Treasury, and for other purposes.”

A motion to reconsider was laid on the table.

ANGEL ISLAND IMMIGRATION STATION RESTORATION AND PRESERVATION ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 606) to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California.

The Clerk read as follows:

H.R. 606

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

SECTION 1. SHORT TITLE. This Act may be cited as the “Angel Island Immigration Station Restoration and Preservation Act.”

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Angel Island Immigration Station, also known as the Ellis Island of the West, is a National Historic Landmark. In addition, Angel Island Immigration Station is considered by many to be the birthplace of the American Asian story and a symbol of the American experience. The walls of the main building serve as a repository for the life stories of immigrants who have traveled to our shores.

(2) Before 1940, the Angel Island Immigration Station processed more than 1,000,000 immigrants and emigrants from around the world.

(3) The Angel Island Immigration Station contributed significantly to our understanding of our Nation’s rich and complex immigration history.

(4) The Angel Island Immigration Station was built to enforce the Chinese Exclusion Act of 1882 and subsequent immigration laws, which unfairly and severely restricted Asian immigration.

(5) During their detention at the Angel Island Immigration Station, Chinese detainees carved poems into the walls of the detention barracks. More than 140 poems remain today, representing the voices of immigrants awaiting entry to this country.

(6) More than 50,000 people, including 30,000 schoolchildren, visit the Angel Island Immigration Station annually to learn more about the experience of immigrants who have traveled to our shores.

(7) The restoration of the Angel Island Immigration Station and the preservation of the writings and drawings at the Angel Island Immigration Station will ensure that future generations experience and appreciate the great symbol of the perseverance of the immigrant spirit, and of the diversity of this great Nation.

SEC. 3. RESTORATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury $5,000,000 for restoring the Angel Island Immigration Station in the San Francisco Bay, in coordination with the Angel Island Immigration Station Foundation and the California Department of Parks and Recreation.

(b) FEDERAL FUNDING.—Federal funding under this Act shall not exceed 50 percent of the total funds from all sources spent to restore the Angel Island Immigration Station.

(c) PRIORITY.—(1) Except as provided in paragraph (2), the funds appropriated pursuant to this Act shall be used for the restoration of the Immigration Station on Angel Island.

(2) Any remaining funds in excess of the amount required to carry out paragraph (1) shall be used solely for the restoration of the Angel Island Immigration Station.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

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

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

Mr. Speaker, H.R. 606, introduced by the gentlewoman from California (Ms. WOOLSEY), would authorize an appropriation up to $15 million to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in San Francisco Bay.

The funds would be used in coordination with the Angel Island Immigration Station Foundation and the California Department of Parks and Recreation. The bill would also require funds appropriated by the Act to be used first for restoration of the Immigration Station Hospital on the island. Finally, the bill limits the Federal funding to 50 percent of the total funds from all the sources spent to restore the immigration station.

I urge adoption of the bill.

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

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

(Mrs. CHRISTENSEN asked and was given permission to revise and extend her remarks.)

Mrs. CHRISTENSEN. Mr. Speaker, the majority has already explained the purpose of H.R. 606, which was introduced by my colleague, the gentlewoman from California (Ms. WOOLSEY).

Angel Island is a nationally significant resource, as evidenced by its designation as a National Historic Landmark. Angel Island tells an important historical story about immigration into the western United States; how entry was offered to some, but denied to others under the discriminatory practices of that day.

The gentlewoman from California (Ms. WOOLSEY) is to be commended for her leadership on H.R. 606. She has a bipartisan coalition supporting her initiative, including California Governor Arnold Schwarzenegger. Many individuals and organizations have come to recognize the importance of a Federal-State-private partnership in the preservation and interpretation of this important aspect of our Nation’s history.

Mr. Speaker, we support H.R. 606 as a means to help preserve the rich history of the Angel Island Immigration Station and urge its adoption by the House today.

Mr. Speaker, I yield such time as she might consume to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise to speak on H.R. 606, the bill that was working patiently at my desk. I flew in on the red eye so that I could talk about Angel Island and how wonderful it is. And I want to thank the ranking members of this committee for making this possible for me, and allowing the gentlewoman from California (Ms. WOOLSEY) and the gentleman from Indiana (Mr. SOUDER) in an effort to preserve the historic Angel Island Immigration Station. It is located just east of Sausalito in the San Francisco Bay, and to Asian Americans throughout the United States.

As you know, I have worked for the past 3 years with the Angel Island Immigration Station Foundation and the gentlewoman from California (Leader PELOSI) and the gentleman from Indiana (Mr. SOUDER) in an effort to preserve the historic Angel Island Immigration Station. This landmark is a particular high priority because of what it means to Asian Americans nationwide. Many of you are familiar, all of us are familiar with the symbolism of Ellis Island to European Americans. The same feelings of legacy and pride can be equated to the Americans of Asian heritage on the west coast. In fact, Angel Island was the first American soil most Asian immigrants stepped on.

With over one million people having been processed through the sites, millions of Asians and Asian descendants who are eager to trace their roots in this country honored in the same way that we honor Ellis Island.

In addition, Angel Island Immigration Station also houses a unique literary display of Asian American culture. The walls of the main building hold layers of poetry reflecting the record of hardship endured and the indignity suffered by the early Chinese as they were being processed into America. If these walls crumble, we will lose this one-of-a-kind documentation for future generations.

Because of its rich history, the site is currently used as a teaching tool for
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students and a museum for visitors. Hundreds of school children and researchers have made the trip by ferry out to the site each year to learn about its rich history.

Mr. Speaker, I have worked with the Foundation to find additional sources of funding for the restoration project to ensure future generations can learn from the site. The current estimate to complete the preservation is over $30 million. $16 million already raised through Federal grants, State funding, and private donations; $15 million still remains to finish the project.

With no more grants available and the State of California contributing close to half of the funding, it is important that the Federal Government become a part of this preservation effort, and that is what we are doing today. And I thank you for making that happen in the House.

Mr. Speaker, I want to thank Chairman POMBO, Ranking Member RAHALL, and the House Leadership for allowing us to consider this piece of legislation that is important to my district and the San Francisco Bay Area.

As you may know, I have worked for the past 3 years with the Angel Island Immigration Station Foundation and Leader PELOSI and Congressman MARK SOUDER in an effort to preserve the historic Angel Island Immigration Station, located just east of Sausalito in the San Francisco Bay.

This landmark is a particularly high priority because of what it means to Asian Americans nationwide. Many of you are familiar with the symbolism of Ellis Island to European Americans. The same feelings of legacy and pride can be encountered by the Asian Americans of heritage on the west coast. In fact, Angel Island was the first American soil most Asian immigrants stepped on.

Over 100 million people having been processed through this site, millions of Asian descendants nationwide are eager to see their roots in this country honored in the same way we honor Ellis Island.

In addition, Angel Island Immigration Station also houses a unique literary display of Asian American culture. The walls of the main building hold layers of poetry reflecting the record of hardship endured and the indignity suffered by the early Chinese as they were being processed into America. If these walls crumble, we will lose this “one-of-a-kind” documentation forever.

Because of its rich history, the site is currently used as a teaching tool for students and a museum for visitors. Hundreds of school children and researchers make the trip by ferry out to the site each year to learn about its rich past.

Mr. Speaker, I have worked with the Foundation to find additional sources of funding for the restoration project to ensure future generations can learn from this site. The current estimate to complete the preservation is over $30 million, $16 million already raised through Federal grants, State funding, and private donations, $15 million is still needed.

With no grants available, and the State of California contributing close to half of the funding, it is important that the Federal Government become a part of this preservation effort. That is what we are doing today.

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

Ms. PELOSI. Mr. Speaker, I rise in strong support of H.R. 606, the Angel Island Immigration Station Restoration and Preservation Act. For 30 years, between 1910 to 1940, Angel Island served as the first point of entry for hundreds of thousands of immigrants from around the world. It was also a processing center for immigrants coming in from across the Atlantic, is well known, the story of Angel Island is one that is often lost between the pages of our nation’s history.

While the buildings were spared from the war, 1 million immigrants were processed on Angel Island, including immigrants from Japan, Korea, the Philippines, and Central and South America. It would be the first, and sometimes, American soil that that many of these people, who hoped to call this country their home, would walk upon.

Among these stories are the unforgettable voices of more than 170,000 Chinese immigrants, who sacrificed everything to come to this country to realize the American Dream.

The Chinese Exclusion Act of 1882 prevented many Chinese from entering the United States. Those allowed to enter were held in detention on Angel Island. Segregated and separated into barracks, detainees faced stark living conditions, humiliating medical examinations, and grueling interrogations, while their detentions dragged on from days to months, and even years. All this while they awaited a decision on whether they would be permitted to enter the United States, or sent back to China. While the detainees would eventually leave the Island and the Immigration Station would close, they would leave behind their powerful testaments, inscribed as poetry, on the walls that confined them.

Today, more than 100 of these poems are still visible, etched on the barricade walls. Together, they capture the tears, sadness, and longing felt by the immigrants. Despite the extreme hardships faced on Angel Island, many of these poems also reflect the timelessness of the hope that is shared by all who are drawn to and believe in our country.

In 1940, Angel Island Immigration Station was closed after a fire destroyed the administration building. The U.S. Army used the island during World War II, departing when the war was over. Angel Island became incorporated as a part of the California State Park system in 1963.

Abandoned and neglected, the structures fell into various states of disrepair and were scheduled for demolition in 1970, and a ranger rediscovered the poet’s American legacy on the walls. Although the buildings were spared from being torn down, more resources are needed to restore this unique and significant landmark.

This legislation would authorize $15 million, to be matched by state and private funding, to restore the buildings at Angel Island Immigration Station, and ensure its preservation for future generations.

Understanding our past is key to our nation’s success and strength, today and in the future. Preserving Angel Island ensures that the sacrifices of past immigrants live on in the proud immigrant heritage we all share. I urge my colleagues to support this significant piece of legislation.

Mr. SOUDER. Mr. Speaker, I rise in support of H.R. 606, the Angel Island Immigration Station Restoration and Preservation Act. Historic preservation is the key to remembering our past. Without key places and artifacts from our history, it would be impossible to tell future generations of Americans how, where, and why our country came to be what it is. Whenever a place or object is lost, a piece of history is gone forever. It is our duty to ensure that history is preserved.

The Angel Island Immigration Station Restoration and Preservation Act aims to preserve part of our history. Known as the Ellis Island of the West, Angel Island was the primary entry point for hundreds of thousands of immigrants from the Pacific Rim, including Australia and New Zealand, Canada, Mexico, Central and South America, Russia, and in particular, Asia. During Angel Island’s years of operation (1910–1940), an estimated 175,000 Chinese immigrants were processed through Angel Island.

In 1940, Angel Island Immigration Station closed after a fire destroyed the Administration Building. Following the Army’s departure from Angel Island, the structures fell into disrepair. Many were removed by the Army Corps of Engineers and California State Parks. Of the original Immigration Station structures, only the Detention Barracks, Hospital, Power House, Pump House and Mule Barn remain.

Today, some structures are in various states of disrepair; hence the need for this legislation.

Without H.R. 606, the structures on Angel Island will fall further into decay. Many of the buildings are crumbling and leak; consequently, many poems written by the Chinese immigrants detained at Angel Island are in danger of being destroyed. State, private, and local entities have already contributed mightily to this project; sadly, they have not been able to complete the project. This bill will authorize $15 million in funding so that this unique aspect of our history can be preserved for future generations. Compared to the $156 million spent to restore Ellis Island, this restoration project is a bargain and of no less significance.

Millions of people journey to Ellis Island every year in order to see where their ancestors came ashore. This legislation would allow descendants of Angel Island arrivals to take the same opportunity to visit the place where their ancestors’ American Dreams started.

Although the status of Angel Island as part of the California State Parks system sets it apart from many other historic sites that receive federal funding, the importance of the site and its contribution to the United States makes its official designation irrelevant. Our nation’s history must be preserved regardless of official status.

I urge my colleagues to support the passage of H.R. 606, the Angel Island Immigration Station Restoration and Preservation Act. Keeping our immigration heritage in good repair is essential if the United States is to maintain its unique status as a beacon of democracy and opportunity.

Mr. HONDA. Mr. Speaker, I rise today in support of H.R. 4469, the Angel Island Immigration Station Restoration and Preservation Act.

I would like to recognize my colleague Representative LYNN WOOSLEY from California for her determination and leadership in this effort. As a member of the Appropriations Committee, I applaud the House adoption of this legislation.
her steadfast leadership in ensuring Angel Island Immigration Station is preserved and re-opened.

As Chair of the Congressional Asian Pacific American Caucus (CAPAC), I support the federal authorization of $15 million for the preservation and restoration of Angel Island, which would have been occupied by China, Japan, Korea, Australia, and the Philippines entered the United States to start a new life.

Angel Island Immigration Station is appropriately known as the "Ellis Island of the West," located in the San Francisco Bay. Angel Island served as a processing and detainment center for one million immigrants between 1910 and 1940. Of those one million people, 175,000 were Chinese immigrants and 150,000 were Japanese immigrants.

For the 30 years that Angel Island was in existence, detainees experienced overcrowded facilities, humiliating medical examinations, intense interrogations, and countless days—even years—waiting until approval of their applications or deportation. Although conditions could be deplorable, Angel Island was an entry point to a better future for many immigrants.

In 1940, Angel Island Immigration Station's administration building was destroyed. In 1963, California State Parks assumed the role of stewardship of the site when Angel Island became a state park.

In the 1970s, the site was set for demolition until a park ranger discovered etched writings on the walls. Etched by detainees, the writings and drawings on the wall reflect the hardships and hopes of detainees during the uncertain period in which they awaited decisions on their immigration applications. The cultural and historical value of these etchings sparked efforts to save this site. In 1997 Angel Island Immigration Station became a National Historic Landmark.

More than 50,000 people continue to visit Angel IslandImmigration Station yearly, but sadly, the history of Angel Island is often left out of classroom lectures. However, with greater federal support, we can restore the Island's historic buildings, preserve irreplaceable immigration records, and keep alive the stories and memories of those who were detained on the Island.

While preserving the Angel Island Immigration Station is important to Asian Pacific Americans, it should be a priority for all Americans. Just as Ellis Island is a critical part of our nation's history, Angel Island offers American's a richer and more comprehensive understanding of our history and the diversity we celebrate in this nation.

Mr. Speaker, I wholeheartedly support H.R. 4469 and its authorization of $15 million to restore and preserve historic buildings at Angel Island Immigration Station. I urge my colleagues to join me in supporting this important piece of legislation.

Mr. RADANOVICH. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

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

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

There was no objection.

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

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

There was no objection.

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

Mr. Speaker, H.R. 849, introduced by my committee colleague, the gentleman from Nevada (Mr. GIBBONS), would provide for the conveyance of certain public land in Clark County, Nevada, currently being managed by the Bureau of Land Management, to the county for use as a heliport.

The Las Vegas Valley is among the fastest growing communities in the United States. This community thrives...
Mr. PORTER. Mr. Speaker, I rise today to speak on H.R. 849 on behalf of my colleague, the gentleman from Nevada (Mr. GIBBONS), before I make my own remarks on this important piece of legislation.

First, I would like to read a prepared statement by the gentleman from Nevada (Mr. GIBBONS).

Again, on behalf of the gentleman from Nevada (Mr. GIBBONS): "I would like to express my strong support for H.R. 849 to convey certain public land in Clark County, Nevada, for use as a heliport.

"Nevada is 84 percent owned and managed by the Federal Government. This large share of Federal lands makes management of Nevada's cities and counties difficult at best. Extensive Federal ownership of Nevada, coupled with the rapid growth we are currently experiencing, brings even greater need for planning and management of all types of transportation in Nevada."

"Currently, over 90 helicopter flights per day, over 32,850 flights per year, fly over the homes of 90,000 Las Vegas residents. As you can imagine, this high volume of air traffic poses challenges and problems for the residents of southern Nevada. To help alleviate this problem, Clark County has searched extensively for a site that will not only accommodate helicopter operators, but meet the needs of the surrounding communities."

"The heliport site agreed to in this legislation is the result of a great deal of study and planning. Several sites were identified as potentially suitable. However, the site outlined in my legislation is the most ideal location. The site outlined in this legislation is further out of the city and will not affect any of the current residential areas."

"Again, thank you, Mr. Speaker, for your consideration."

"Again, these comments were based upon written remarks from my colleague, the gentleman from Nevada (Mr. GIBBONS)."

Mr. Speaker, this is important legislation for Nevada that will hopefully alleviate some public safety concerns regarding helicopter overflights. As a result, we do not oppose H.R. 849.

In addition to her other colleagues in Nevada delegation, the gentlewoman from Nevada (Ms. BERKLEY) is to be commended for her tireless efforts on behalf of this legislation. She continues to be a forceful advocate for managing the explosive growth of her communities effectively and responsibly.

Of course, the distinguished Senate Minority Leader has been a powerful advocate for this legislation, and I know the delegation and the people of Nevada appreciate his leadership.

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

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

Mr. Speaker, this is important legislation for Nevada that will hopefully alleviate some public safety concerns regarding helicopter overflights. As a result, we do not oppose H.R. 849.

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

Mr. RADANOVICH. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. PORTER).

Mr. PORTER. Mr. Speaker, I rise today to speak on H.R. 849 on behalf of my colleague, the gentleman from Nevada (Mr. GIBBONS), before I make my own remarks on this important piece of legislation.

As an original cosponsor of this bill, I understand the problems that the current helicopter overflight path causes to many of my constituents. With almost 33,000 flights occurring per year over approximately 90,000 people, a viable alternative to the current flight path that not only meets the needs of Southern Nevadans but also the operators of the helicopters themselves is no longer wanted but needed.

In order to solve the conflict, Clark County and other major stakeholders collaborated to find this alternative. After many studies, the site outlined in H.R. 849 was determined to be the most suitable. The area chosen within the legislation moves the flight path away from the residential areas, yet still allows helicopter operators to continue their air tours over Hoover Dam, the Grand Canyon, the Las Vegas Strip, and other beautiful areas of the American Southwest.

Mr. Speaker, I would also like to voice my strong support for H.R. 849. As an original cosponsor of this bill, I understand the problems that the current helicopter over-flight path causes to my constituents. With almost 33,000 flights occurring per year over approximately 90,000 people, a viable alternative to the current flight path that not only meets the needs of Southern Nevadans, but also the operators of the helicopters themselves, is no longer wanted, but needed.

In order to solve the conflict, Clark County and other major stakeholders collaborated to find this alternative. After many studies, the site outlined in H.R. 849 was determined to be the most suitable. The area chosen within the legislation moves the flight path away from residential areas yet still allows helicopter operators to continue their air tours over Hoover Dam, the Grand Canyon, the Las Vegas Strip, and other beautiful areas of the American Southwest.

Mr. GIBBONS. Mr. Speaker, I would like to express my strong support for H.R. 849, to convey certain public land in Clark County, Nevada for use as a heliport. Nevada is 84 percent owned and managed by the federal government. This large share of federal land makes management of Nevada’s cities and counties difficult at best. Extensive federal ownership of Nevada coupled with the rapid growth we are currently experiencing brings even greater need for planning and management of all types of transportation.

Currently over 90 helicopter flights per day, or 32,850 flights per year, fly over the homes of more than 90,000 Las Vegas residents. As you can imagine, this high volume of air traffic poses challenges and problems for the residents of southern Nevada. To help alleviate this problem, Clark County has searched extensively for a site that will not only accommodate helicopter operators, but meet the needs of the surrounding communities.

The heliport site agreed to in this legislation is the result of a great deal of study and planning. Several sites were identified as potentially suitable. However, the site outlined in my legislation is the most ideal location. The site outlined in this legislation is further out of the city and will not affect any of the current residential areas.

Again, thank you, Mr. Speaker, for your consideration.

Again, these comments were based upon written remarks from my colleague, the gentleman from Nevada (Mr. GIBBONS).
REVOKEING PUBLIC LAND ORDER WITH RESPECT TO CERTAIN LANDS IN CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1101) to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

The Clerk read as follows:

H.R. 1101

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

SECTION 1. REVOKE PUBLIC LAND ORDER WITH RESPECT TO LANDS ERRONEOUSLY INCLUDED IN CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA.

Public Land Order 344, dated August 21, 1964, is revoked insofar as it applies to the following described lands: San Bernardino Meridian, T11S, R22E, sec. 6, all of lots 1, 16, and 17, and SE1⁄4 of SW1⁄4 in Imperial County, California, aggregating approximately 140.32 acres.

SEC. 2. RESURVEY AND NOTICE OF MODIFIED BOUNDARIES.

The Secretary of the Interior shall, not later than 6 months after the date of the enactment of this Act—

(1) survey the boundaries of the Cibola National Wildlife Refuge, as modified by the revocation under section 1;

(2) publish notice of, and post conspicuous signs marking, the boundaries of the refuge determined in such resurvey; and

(3) prepare and publish a map showing the boundaries of the refuge.

The SPEAKER pro tempore (Mr. DANIEL L. WALTERS of California). Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

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

Mr. RADANOVICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1101.

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

There was no objection.

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume; and I am pleased to strongly support H.R. 1101, introduced by my good friend, the gentleman from California (Mr. HUNTER). This gentleman from California has done an excellent job of representing his constituents who, through no fault of their own, find themselves operating a concession within the National Wildlife Refuge System.

This concession, known as Walter’s Camp, has existed since 1962. It has consistently provided recreational opportunities to thousands of Americans. It is one of the few places along the lower Colorado River that offers such a variety of healthy outdoor activities.

About 5 years ago, the concessionaire was advised by the Fish and Wildlife Service that Walter’s Camp had been inadvertently added to the Cibola National Wildlife Refuge and that corrective legislation was necessary. This is the purpose of this measure, to correct this mistake; and there is no opposition to returning the title of this property to the Bureau of Land Management. In fact, identical legislation passed the House unanimously on two separate occasions in the 108th Congress.

I urge an “aye” vote on H.R. 1101.

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

Mr. Speaker, the purpose of this legislation is to correct an error in the 1964 public land withdrawal that created the Cibola National Wildlife Refuge in California.

H.R. 1101 is identical to legislation passed by the House during the 107th and 108th Congresses, and we have no objection to this noncontroversial bill.

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

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

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

A motion to reconsider was laid on the table.

The Clerk read as follows:

H.R. 2066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
be assumed by the Acquisition Services Fund.

(d) EXISTENCE AND COMPOSITION OF ACQUISITION SERVICES FUND.—Subsections (a) and (b) of section 321 of title 40, United States Code, are amended to read as follows:

“(a) EXISTENCE.—The Acquisition Services Fund is a special fund in the Treasury.

“(b) COMPOSITION.—(1) IN GENERAL.—The Fund is composed of amounts authorized to be transferred to the Fund or otherwise made available to the Fund.

“(2) OTHER CREDITS.—The Fund shall be credited with all reimbursements, advances, and refunds or recoveries relating to personal property or services procured through the Fund, including—

“(A) the net proceeds of disposal of surplus personal property; and

“(B) receipts from carriers and others for loss of, or damage to, personal property; and

“(C) receipts from agencies charged fees pursuant to rates established by the Administrator.

“(3) COST AND CAPITAL REQUIREMENTS.—The Administrator shall determine the cost and capital requirements of the Fund for each fiscal year and shall develop a plan concerning such requirements in consultation with the Chief Financial Officer of the General Services Administration. Any change to the capital requirement requirements of the Fund for a fiscal year shall be approved by the Administrator. The Administrator shall establish rates to be charged agencies provided, or to be provided, supply of personal property and non-personal services through the Fund, in accordance with the plan.

“(d) DEPOSIT OF FEES.—Fees collected by the Administrator under section 313 of this title may be deposited in the Fund to be used for the purposes of the Fund.

“(e) USES OF FUND.—Section 321(c) of such title is amended by adding at the end of such subsection—

“(i) appointment to which is by the President, by and with the advice and consent of the Senate;

“(ii) in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a) of title 5, United States Code); or

“(iii) which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.”.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

The SPEAKER pro tempero. Pursuant to the rule, the gentleman from Florida (Ms. Ros-Lehtinen) and the gentleman from Illinois (Mr. Davis) extend control 20 minutes.

The Chair recognizes the gentleman from Florida (Ms. Ros-Lehtinen).

Ms. ROS-LEHTINEN. 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. 2066.

The SPEAKER pro tempore. Mr. DANIEL E. LUNGREN of California. Is there objection to the request of the gentleman from Florida?

There was no objection. Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform, I rise in support of H.R. 2066, the General Services Administration Modernization Act. This legislation would provide a reorganization of the General Services Administration, the Federal agency that is charged with procuring the facilities, products, services, and technology that Federal agencies and their employees need every day. H.R. 2066 will ensure that the GSA maximizes its use of taxpayer funds.

This legislation has been under consideration in our Committee on Government Reform for a number of years, and it has been the subject of multiple legislative and oversight hearings and was included in the President’s budget proposal for fiscal year 2006. Specifically, H.R. 2066 would combine GSA’s current Federal Supply Service and Federal Technology Service into a single entity, operating out of a unified fund. This would provide Federal agencies with a one-stop shop to acquire all of their commercial goods and services.
The separate technology fund was created in the 1980s to assist agencies as they incorporated complex mainframe computers into their daily operations. But today information technology is as common in the Federal workplace as furniture. Having two separate entities within GSA—one focusing on IT goods and services, one focusing on non-IT goods and services—is no longer appropriate. So H.R. 2066 would provide GSA with the statutory structure that it needs to bring it in line with the current commercial market.

Overall, the reforms provided in H.R. 2066 would help GSA streamline its operations, improve its performance and efficiency far into the future. I urge its passage today. Mr. Speaker, and I congratulate the bill’s distinguished authors, the gentleman from Virginia (Mr. Tom Davis) and the gentleman from California (Mr. Hunter) for working to create such a thoughtful bill.

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

Mr. Davis of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleague, the gentlewoman from Florida (Ms. Ros-Lehtinen), in consideration of H.R. 2066, the bill before us today.

H.R. 2066, the General Services Modernization Act, as reported by the Committee on Government Reform, represents the first major reorganization within the GSA in nearly 20 years. This bill would combine without substantive change the revolving funds used for the operations of the Federal Supply Service and the Federal Technology Service, both currently separate organizations within GSA.

The bill would also authorize a new unit, the Federal Acquisition Service, headed by a commissioner, to take over the operations of the combined services.

The Federal Supply Service provides an economic and efficient system for the procurement and supply of goods and services to Federal agencies. One way it does this is through the schedules program which manages long-term government-wide contracts for commercial goods and services. This provides customer agencies with benefits of volume discount pricing, lower administrative costs, and reduced inventories.

The Federal Technology Service offers agencies a wide range of information technology and telecommunication products and services on a number of contract vehicles. Its focus is oriented toward providing more full-service solutions for IT, telecommunications and professional services.

While I would have preferred a more thorough analysis of the benefits of the consolidation intended by this bill, the proposed bill would offer increased organizational efficiency and improved coordination of the functions the services currently provide. I look forward to reviewing the detailed reorganization plans that the GSA is preparing.

The bill also contains provisions which would give civilian agencies additional tools to maintain their acquisition work forces. It would allow agencies to offer retention bonuses and to be reimbursed for some special circumstances. I would also like to thank the chairman for working with us to provide appropriate safeguards on the use of this authority and for accepting a Democratic amendment regarding the appointment of the new commissioner of the Federal Acquisition Service.

While not directly relevant to this legislation, I would like to take this opportunity to urge the GSA to consult more closely with Federal employee unions on its plans for reorganizing. A number of representatives of Federal employees have contacted the committee with concerns about the reorganization. Primary among those concerns is the fact that no one seemed to be talking to the unions about the plans for merging the two services. This approach can only breed distrust and fear, and I urge the administrator to improve communication with the affected employees.

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

Ms. Ros-Lehtinen. Mr. Speaker, I withdraw my motion to suspend the rules on H.R. 2066.

The SPEAKER pro tempore. The motion is withdrawn.

GENERAL SERVICES ADMINISTRATION MODERNIZATION ACT

Ms. Ros-Lehtinen. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2066) to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2066

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 “General Services Administration Modernization Act”.

SEC. 2. FEDERAL ACQUISITION SERVICE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Section 303 of title 40, United States Code, is amended to read as follows:

§303. Federal Acquisition Service

“(a) ESTABLISHMENT.—There is established in the General Services Administration a Federal Acquisition Service. The Administrator of General Services is designated as the head of the Federal Acquisition Service, who shall be the head of the Federal Acquisition Service.

“(b) FUNCTIONS.—Subject to the direction and control of the Administrator of General Services, the Commissioner of the Federal Acquisition Service shall be responsible for carrying out functions related to the uses for which the Acquisition Services Fund is authorized under section 321 of this title, including any functions that were carried out by the entities known as the Federal Supply Service and the Federal Technology Service and such other related functions as the Administrator considers appropriate.”.

(2) REGIONAL EXECUTIVES.—The Administrator may appoint up to five Regional Executives in the Federal Acquisition Service, to carry out such functions within the Federal Acquisition Service as the Administrator considers appropriate.”.

(2) CLERICAL AMENDMENT.—The item relating to section 303 at the beginning of chapter 3 of title 40 is amended to read as follows: “303. Federal Acquisition Service.”.

(b) EXECUTIVE SCHEDULE COMPENSATION.—Section 5316 of title 5, United States Code, is amended by striking “Commissioner, Federal Supply Service, General Services Administration” and inserting the following: “Commissioner, Federal Acquisition Service, General Services Administration.”.

(c) REFERENCES.—Any reference in any other Act shall be construed to mean the Federal Acquisition Service.

SEC. 3. ACQUISITION SERVICES FUND.

(a) ABOLITION OF GENERAL SUPPLY FUND AND INFORMATION TECHNOLOGY FUND.—The General Supply Fund and the Information Technology Fund in the Treasury are hereby abolished.

(b) TRANSFERS.—Capital assets and balances remaining in the General Supply Fund and the Information Technology Fund as in existence immediately before this section takes effect shall be transferred to the Acquisition Services Fund established by this Act.

(c) ASSUMPTION OF OBLIGATIONS.—Any liabilities, commitments, and obligations of the General Supply Fund and the Information Technology Fund as in existence immediately before this section takes effect shall be assumed by the Acquisition Services Fund established by this Act.

(d) EXISTENCE AND COMPOSITION OF ACQUISITION SERVICES FUND.—Subsections (a) and (b) of section 321 of title 40, United States Code, are amended to read as follows: “(a) EXISTENCE.—The Acquisition Services Fund is a special fund in the Treasury.

“(b) COMPOSITION.—(1) IN GENERAL.—The Fund is composed of amounts authorized to be transferred to the Fund or otherwise made available to the Fund.

“(2) OTHER CREDITS.—[Section 321(c) of title 40, United States Code, is amended by striking “Fund” and inserting “Acquisition Services Fund”.

“(3) COST AND CAPITAL REQUIREMENTS.—The Administrator shall determine the cost and capital requirements of the Fund for each fiscal year and shall develop a plan concerning such requirements in consultation with the Chief Financial Officer of the General Services Administration. Any change to the cost and capital requirements of the Fund for a fiscal year shall be
approved by the Administrator. The Administrator shall establish rates to be charged agencies provided, or to be provided, supply of personal property and non-personal services through the General Supply Fund in accordance with this section.

Pursuant to the Budget Act of 1970, as amended, this section shall expire on December 31, 2011.

SEC. 5. EFFECTIVE DATE.

The Administra-

The Federal Technology Service offers solutions for IT, telecommunication, and procurement contracts, both currently separate organizations within GSA. The bill before us today, H.R. 2066, the "General Services, Modernization Act" as reported by the Government Reform Committee represents the first major reorganization within GSA in nearly 20 years. The bill would combine, without substantive change, the revolving funds used for the operations of the Federal Supply Service and the Federal Technology Service, both currently separate organizations within GSA. The bill would also authorize a new unit, the Federal Acquisition Service, headed by a Commissioner, to take over the operations of the combined services.

The Federal Supply Service provides an economic and efficient system for the procurement and supply of goods and service to Federal agencies. One way it does this is through the schedules program, which manages long-term, government-wide contracts for commercial goods and services. This provides customers with benefits of volume discounts, lower administrative costs, and reduced inventories.

The Federal Technology Service offers agencies a range of information technology and telecommunications products and services on a number of contract vehicles. It is focused on providing full-service solutions for IT, telecommunication, and professional services.

While I would have preferred a more thorough analysis of the bill’s impact, the Administration’s position is that this bill would provide a framework for improved coordination and collaboration across Government.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. Davis) and the gentleman from Florida (Ms. Ros-Lehtinen) each will control 20 minutes.

Mr. Speaker, as we had discussed, the bill before us is to provide the General Services Administration with the statutory structure that it needs to bring it in line with the current commercial market transactions, and it is going to streamline its operation and improve its performance. There are no objections to the bill.

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

Mr. Speaker, as we had discussed, the bill before us is to provide the General Services Administration with the statutory structure that it needs to bring it in line with the current commercial market transactions, and it is going to streamline its operation and improve its performance. There are no objections to the bill.

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Mr. Speaker, as we had discussed, the bill before us is to provide the General Services Administration with the statutory structure that it needs to bring it in line with the current commercial market transactions, and it is going to streamline its operation and improve its performance. There are no objections to the bill.
I look forward to reviewing the detailed reorganization plans GSA is preparing. The bill also contains provisions which would give civilian agencies additional tools to maintain their acquisition workforces. It would allow agencies to offer retention bonuses and to re-employ retirees in certain special circumstances. I would like to thank the Chair- man for working with us to provide appropriate safeguards on the use of this authority, and for accepting a Democratic amendment regarding the appointment of the new Commissioner of the Federal Acquisition Service. When not directly relevant to this legislation, I would like to take this opportunity to urge GSA to consult more closely with Federal employee unions on its plans for reorganizing. A number of representatives of Federal employees have contacted the Committee with concerns about the reorganization. Primary among those concerns is the fact that no one seems to be talking to them about the plans for merging the two services. This approach can only breed distrust and fear, and I urge the Administrator to improve communication with the affected Federal employees.

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

Ms. ROS-LEHTINEN. Mr. Speaker, I urge all of my colleagues to support H.R. 2066, and I yield back the balance of my time.

The SPEAKER pro tempore. The question was taken; and (two- thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CELEBRATING ASIAN PACIFIC AMERICAN HERITAGE MONTH

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 280) celebrating Asian Pacific American Heritage Month, as amended.

The Clerk read as follows:

H. Res. 280

Whereas the contributions of Asian Pacific Americans to our Nation have been historically significant;

Whereas at the direction of Congress in 1978, the President proclaimed the week of May 7 through 10, 1979, as Asian Pacific American Heritage Week, to provide the people of the United States with an opportunity to recognize the achievements, contributions, history, and concerns of Asian Pacific Americans;

Whereas this seven day period designated Asian Pacific American Heritage Week intended to mark two historical dates—May 7, 1843, when the first Japanese immigrants arrived in the United States, and May 10, 1869, Golden Spike Day, when, with substantial contributions from Chinese immigrants, the first transcontinental railroad was completed;

Whereas in 1992, Congress by law designated that the month of May be annually observed as Asian Pacific American Heritage Month;

Whereas according to the U.S. Census Bureau an estimated 14.5 million United States residents trace their ethnic heritage, in full or in part, to Asia and the Pacific Islands;

Whereas Asian Americans and Pacific Islanders can list innovative contributions to all aspects of life in the United States ranging from the first transcontinental railroad to the Atomic Age;

Whereas in the mid-1700’s Filipino sailors formed the first Asian American and Pacific Islander communities in the bayous of Louisiana;

Whereas Asian Americans and Pacific Islanders have added to the vast cultural wealth of our Nation; and

Whereas more than 300,000 Americans of Asian or Pacific Island heritage have bravely and honorably served to defend the United States in times of armed conflict from the Civil War to the present: Now, therefore, be it

Resolved, That the House of Representatives

(1) recognizes that the United States draws its strength from its diversity, including contributions made by Asian Americans and Pacific Islanders;

(2) recognizes that the Asian American and Pacific Islander community is a thriving and integral part of American society and culture;

(3) recognizes the prodigious contributions of Asian Americans and Pacific Islanders to the United States; and

(4) supports the goals of Asian Pacific American Heritage Month.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Clerk recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 280.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida (Ms. ROS-LEHTINEN)? There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 280 celebrates Asian Pacific American Heritage Month. The resolution honors the immense contributions that Asians and Pacific Islanders have made to our Nation.

This month, May, is Asian Pacific American Heritage Month, and the theme is “Freedom For All—A Nation We Can Call Our Own.”

Today, more than 14 million native Hawaiians, Pacific Islanders and Asians call America their home nation. This legislation is a fitting tribute to our Asian and Pacific Island friends and neighbors. I thank the House leadership, particularly the Majority Leader for scheduling this meaningful resolution today.

Congress first observed this commemoration in 1978 as Asian Pacific American Heritage Week during the first 10 days of May. Then, in 1992, Congress expanded the commemoration to designate the entire month of May as Asian Pacific American Heritage Month. The first 10 days of May include two important historical dates, May 7, which in 1843 marked the arrival of the first Japanese immigrants to the United States, and May 10, the date in 1869 on which the first North American transcontinental railroad was completed.

The railway was built heading east from Sacramento, California, and west from Omaha, Nebraska, and converged in Utah thanks to the hard work of thousands of laborers, most of whom were Chinese immigrants.

Mr. Speaker, as the war on terrorism continues today, I also wish to recognize the service that more than 300,000 Asian and Pacific veterans have made throughout American history. From the Army’s courageous First and Second Filipino Regiments that General Douglas MacArthur sent torypt behind Japanese lines in World War II, to the indescribable bravery of today’s soldier heroes like Marine Lance Corporal Victor Lu and Army Specialist Thai Vue, who have lost their lives in the past year in Iraq.

Asian and Pacific Americans have indeed sacrificed so much for our cherished liberty and freedoms. I know that all Members of the House join in commending the selflessness of these veterans and active duty soldiers.

Mr. Speaker, I thank the distinguished chairman of our Committee on Government Reform, the gentleman from Virginia (Mr. TOM DAVIS) for his hard work on House Resolution 280. I am pleased to be a cosponsor of the resolution, and I urge all of my colleagues to support its adoption.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased and proud to represent an area in Chicago known as Chinatown. I want to note that I just returned during the break from visiting both China and Sri Lanka.

So I rise today in support of H. Res. 280, celebrating Asian Pacific American Heritage Month.

I also want to take a minute to acknowledge the great example set by the gentleman from Virginia (Mr. TOM DAVIS), the distinguished chairman of the Committee on Government Reform, for his leadership on this important matter.

H. Res. 280 was introduced on May 17, 2005, and enjoys the support and co-sponsorship of 66 Members of Congress. Asian Pacific Americans have a long and distinguished history of involvement and participation in this country. From the early 1800s to the 21st century, Asian and Pacific peoples have played a vital role in the development of the United States and have made lasting contributions in all elements of American society.
Today, the U.S. Census Bureau estimates that 14.5 million Americans trace at least a portion of their ethnic heritage to Asian and Pacific Islanders. Asian Pacific American Heritage Month has a rich tradition in this country as well. In June 1977, Representative Paul Horner from New York and Norman Mineta of California introduced a resolution that called upon President Carter to proclaim the first 10 days of May as Asian Pacific Heritage Week. The celebration remained in use until President George Bush extended the event into the full month of May in 1990.

It was decided that May was the appropriate month for Asian Pacific American Heritage Month because on May 7, 1943, the first group of Japanese immigrants came to the United States. Today, Asian Pacific American Heritage Month is celebrated with events throughout the country intended to educate all of our citizens about the positive impact the Asian Pacific American community has had on our Nation. The theme of this year’s celebration is Freedom For All—a Nation We Call Our Own.

Mr. Speaker, I want to again thank the Vietnamese-American Fred Korematsu, Dr. John B. Tsu, K. Patrick Horton from New York and my good friend, Secretary Norman Mineta, along with Senators Daniel Inouye and Spark Matsunaga, May is designated as Asian Pacific American Heritage Month to celebrate and honor the contributions of the APIA community. In the past, the APIA community has lost extraordinary community activists, advocates, leaders, and long-time friends, such as Fred Korematsu, Dr. John B. Tsu, K. Patrick Okura, Iris Chang, and my colleague and friend Congressman Bob Matsui. As Chair of the Congressional Asian Pacific American Caucus (CAPAC), I feel privileged to represent a community that is growing exponentially and exceedingly diverse in culture, ethnicities, and language. Today, there are over 12 million APIAs living in the U.S. and representing the total U.S. population. By the year 2050, there will be more than 33 million APIAs living in the U.S. My home state of California has both the largest APIA population—4.6 million—and the largest numerical increase of APIAs since April 2000. I am proud to be a member of the APIA community, because we continue to serve as positive contributors to our many communities by investing in education, business, and cultural opportunities for all Americans.

APIAs continue to build clout and power in all sectors of society. APIAs had $104.1 billion in purchasing power in 2002, up 152 percent from 1990. APIAs in California had the most buying power—$104.1 billion—but APIA buying power is growing fast in places like Nevada, Georgia and North Carolina.

Mr. Speaker, as we honor the 40th anniversary of the Immigration Nationality Act of 1965 and the 30th anniversary of the Refugee Act of 1975 this year, we need to remember that our country was founded and created to protect our freedom and civil liberties. And, as a nation of immigrants we must embrace our diversity.

Embracing diversity also means we need to do a better job of disaggregating data and information about the APIA community. The APIA community is often misrepresented as a monolithic racial group and is often seen as the model minority. Aggregating such a large and diverse group makes it difficult to understand the unique problems faced by the individual ethnicities and subgroups, such as the Vietnamese-American or a Japanese-American who prepared the foundation for our country.

As we celebrate Asian Pacific American Heritage Month, one word comes to mind when I think of the people to whom we dedicate this month—and that word is persistence.

From the transcontinental railroad to academy-nominated films, Asian Pacific Americans have helped shape this Nation in incredible ways.

In fact, as many may know, the backbone of our country’s railroad system was built with a labor force that consisted of 80 percent Chinese Americans, who prepared the foundation of our railroad tracks by dangling over cliffs and carrying the first rails that rose over 7,000 feet. In literature, we have the contributions of scholarly elites such as Maxine Hong Kingston and Amy Tan, who have opened our eyes to the different practices of the Far East. In fitness, we are exposed to the discipline of the world of martial arts with disciplines ranging from Tai Chi to Judo. Finally, in philosophy, we are introduced to the idea of Confucius, Sun Tzu, who wrote The Art of War, and Feng Sui to guide our lives.

In the 20th century, the contributions of our nation, with cuisines ranging from India, Thailand, Korea, Japan, and Vietnam, has transformed our taste buds with some of the best and most diverse Asian dishes—but more importantly shown the diversity of the continent.

But this wonderful list of Asian contributions did not come without a price. Thousands of Chinese Americans died under dangerous working conditions while building the transcontinental railroad, yet when the railroad was finished, they were not even allowed to be a part of the official photograph that documented those involved with the construction. Their names were not mentioned anywhere in news articles, and their faces quickly forgotten in American history.

Citizenship was created out of necessity as a form of protection from discrimination and a need for survival. Stereotypes that bias our perceptions today came to form as a result of Asian Americans being restricted to specific low-level jobs as deemed appropriate by the majority of the time. Anti-immigration laws during the early 1900s ensured racial offenses against Asian Americans were abundant and legal. Our nation should never forget the atrocious
Mr. Speaker, despite all the hardship and adversity that Asian Americans have faced during their time in the United States, the persistence and growth of Asian Americans have allowed them to flourish into the leading minority group they are today. I encourage my colleagues to learn from the history of Asian Americans in the United States, so that we may avoid the civil rights violations and discriminatory practices that hurt ethnic communities in the name of national security. I would also like to encourage the future generations of Asian Americans to follow in the footsteps of their ancestors. Persist in your dreams of a fair America, persist in your desires for an equal America, and persist in your fight for an America that is as dedicated and tolerant of you as your ancestors have been with us.

Mr. CROWLEY. Mr. Speaker, I rise today in strong support of the resolution offered by my friend, Mr. Davis.

I represent approximately 85,000 Asian Pacific Islander Americans in my Congressional district in New York City.

I am proud to represent the most diverse Congressional District in the country. From the strong community in Elmhurst to the Philippine community of Woodside to Indian American in Jackson Heights to Bangladeshi Americans in Parkchester, this district reflects the diversity of the continent of Asia and is a true testament of the American melting pot experience.

Thousands of Asian Americans and South Asians have left their lives behind in their homeland, just as my grandparents did, to make a better life for themselves in New York City. They have succeeded from the shops of 74th Street to the presence of Asians at all levels of law, medicine and commerce in our city. They have also become true stakeholders politically as well.

Asian Pacific American Heritage month began on June 30, 1977 when the first 10 days of May 1978 were declared Asian Pacific American Heritage week.

Today, there are over 12 million Asian Pacific Islander Americans living in the United States. By the year 2050, there will be an estimated 34 million U.S. residents who will identify themselves as Asian alone, which will comprise 8 percent of the total population. This is a projected 213 percent increase of Asian Pacific Islander Americans between 2000 and 2050.

I am proud to represent Asian American and celebrate Asian Pacific American Heritage with all my constituents and colleagues.

Mr. HOLT. Mr. Speaker, this month our nation pays tribute to the contributions of the Asian American and Pacific Islander community, including immigrants, refugees, and natives. More than 13 million Asian Americans and Pacific Islanders, representing a diverse community of backgrounds, cultures, and experiences, make their homes in the United States. Their unique contributions enhance the moral fabric and character of our great country.

The Asian American and Pacific Islander community is a fast-growing minority group in the United States. Asian Americans and Pacific Islanders are making valuable contributions to every aspect of American life—from business to education to science to the arts. For example, there are now more than 900,000 AAPI-owned small businesses across the country.

As we celebrate the significant progress made by Asian Americans and Pacific Islanders, it is right for us to honor the memory of great leaders of the API community who have passed away recently, and by far one of the greatest was our own Congressman Bob Matsui, who despite imprisonment in an internment camp during World War II, never lost faith in our country, and was a true champion for all of America’s seniors. We miss Bob dearly, but the voters of California have blessed us by sending his wife, the Gentile lady from California, Ms. Doris Matsui, to carry on his wonderful legacy.

In memory of Bob Matsui and other great figures in the history of our nation, it is only fitting that this year’s theme for Asian Pacific American Heritage Month is “Liberty and Freedom for All.” In my own district, we have our share of emerging leaders from the Asian community, including my friend Shing-Fu Hsueh, the mayor of West Windsor, who is a model public figure. Like Bob Matsui, Shing-Fu Hsueh is a believer in the American ideal, that anyone—regardless of religion, race, or gender—can realize their dreams for themselves and their children. Unfortunately, the faith of every member of New Jersey’s Asian community in that American ideal has been sorely tested recently.

You see, on the very eve of Asian Pacific American Heritage Month, two talk show hosts—whose program airs on one of the largest stations in New Jersey—made a most obnoxious, insulting, and despicable series of anti-Asian statements.

Last month, these shock jocks verbally demeaned Mr. Jun Choi, a Korean-American running for mayor of Edison, New Jersey. This was not a one-time incident, since they have become quite popular and have been making similar remarks for some time. In this case, Mr. Choi was asking his listeners “Would you really vote for someone named Jun Choi?” They then proceeded to say that “Americans” should govern our towns, counties, and country—as if Mr. Choi, Shing-Fu Hsueh, and thousands of other hard-working, tax-paying, and participating people of Asian heritage are not real Americans.

I could cite even more examples from this outrageous broadcast but I refuse to demean this House by repeating some of the other language that these two radio racists used. I’m extremely disappointed that the management of the radio station in question, 101.5 FM, has not issued a written public apology to Jun Choi and the entire Asian community. In my judgment it is the absolute minimum they should do, and I also believe the station management should pledge never again to allow such racists to be aired on their station.

Mr. Speaker, as the Asian Pacific American community continues to contribute to our society and grow in influence—politically, economically, and culturally—I am pleased to say that Americans like Jun Choi, Shing-Fu Hsueh, and Doris Matsui are indeed taking leading roles in our self-governing country.

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

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 149) recognizing the 57th anniversary of the independence of the State of Israel, as amended.

The Clerk read as follows:

H. CON. RES. 149

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 democratic state, 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 the people; Whereas Israel has bravely defended itself from attacks repeatedly since independence; Whereas the Government of Israel has successfully worked with our government and the 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 have come 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 them as a long and trusted ally; and

Whereas Israel has made significant global contributions in the fields of science, medicine, and technology: Now, therefore, be it

RESOLVED, by the House of Representatives (the Senate concurring), That Congress—

(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) praises the efforts of President George W. Bush and Prime Minister Ariel Sharon to create the conditions for peace in the Middle East;

(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.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from New York (Mr. ENGEL) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H. Con. Res. 149, the concurrent resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. Con. Res. 149 marks the 57th anniversary of the State of Israel. Since its birth in 1948, Israel has stood out as a symbol of morality and courage. It has struggled constantly to maintain its independence, notwithstanding military attacks from hostile neighbors and prolonged terrorist campaigns.

Even while at war, Israel’s democracy and its vibrant diverse and free society have stayed strong. Its doors have remained open to victims of persecution and intolerance around the world. It is the nature of the Israeli nation and the character of the Israeli people that have helped form an unbreakable bond between our nations and our people, and we are proud to call them our friends and ally.

The United States and Israel have a long history of friendship and cooperation. In 1948, the United States was one of the first nations to recognize Israel, doing so only 11 minutes after its creation. From that point onward, the relationship between our Nation and Israel has continued to grow.

As the first and only true democracy in the Middle East, Israel is a remarkable example. Its neighbors, Israel has an active free press that constantly holds up a mirror to the government and its policies. It holds regular, free, and fair elections and has a transparent independent judiciary. Israel is home to a diverse and multiethnic society that includes Jews of Middle Eastern descent, Arabs, Druze, and immigrant communities from Russia, Ethiopia, India and, indeed, all parts of the world. Israel exemplifies religious tolerance and respect.

The Israeli people have demonstrated over and over again their commitment to peace and to security in the face of terrorist threats. Israel has worked with the neighboring countries of Egypt and Jordan to establish peaceful bilateral relations and has seen those bonds flourish and strengthen through initiatives such as the Qualified Industrial Zones which have brought prosperity and development to all of the participants involved.

Israel has also continued seeking peace with its Palestinian neighbors, despite the relentless onslaught of suicide bombers that brought the deaths of over 1,000 innocent Israelis over the last 4 years.

Even while facing militant threats from its neighbors, Israel has flourished and has given the world great gifts through its literature and art and through its medical, technological, and scientific advances. The bond between our nations and our people has never been stronger.

Accordingly, I wish to extend my best wishes and congratulations to the people of Israel on their 57th Independence Day and strongly urge my colleagues to support this resolution.

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

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

First of all, let me say what an honor and privilege it is to introduce this resolution today with our great chairman of our Subcommittee on the Middle East, Central Asia, my good friend and the gentlewoman from Florida (Ms. ROS-LEHTINEN). We have worked together so well and so closely on the Middle East and other things that it is an honor to do this with her again this afternoon.

I also want to commend my colleague, the gentleman from South Carolina (Mr. WILSON), for introducing this important resolution.

Mr. Speaker, I rise in strong support of this resolution. Fifty years ago, the State of Israel was established as a sovereign and independent state. Rising from the ashes of the Holocaust, Israel represented not only a refuge for Jews of Europe, the Middle East and elsewhere, but the fulfillment of the age-old dream of the Jewish people for a homeland of their own once again after so many thousands of years.

As you may know, Mr. Speaker, the United States was one of the first nations to recognize Israel only 11 minutes after its creation. The home to many religious sites of Judaism, Christianity, and Islam, Israel provides fair and open access for people of all faiths to visit holy places. The people of Israel have established a unique pluralistic democracy. In fact, it is the only true democracy in the Middle East. This includes the rights and liberties 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.

Today, Israel continues to serve as a model of how societies can resolve conflicts by regularly holding free and fair elections, promoting the free exchange of ideas, and vigorously exercising through its parliament, the Knesset, a democratic government that is fully representative of its people. Indeed, Israel and the United States have shared traditions and shared values, and democracy is certainly one of them.

Unfortunately, ever since its independence, Israel has repeatedly, time and time again, been forced to defend itself from attacks. Yet even in the face of this adversity, the government of Israel has successfully worked with the neighboring governments of Egypt and Jordan to establish peaceful bilateral relations.

During the summer of 2000, President Clinton tried to broker a permanent end to the conflict, where the Israelis signed a peace treaty with their Palestinian neighbors.

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The bonds of Israel and South Carolina are strong. Today’s resolution also commends President George W. Bush of the United States and Prime Minister Ariel Sharon for continuing to work for peace in the Middle East. Despite the loss of the lives of over 1,000 Israelis at the hands of murderous terrorists, the people of Israel continue to seek peace with their Palestinian neighbors. Their perseverance and strong spirit will ensure a bright future for their nation and the Middle East.

As we recognize the 57th anniversary of independence, please join me in extending warm congratulations and best wishes to the people of Israel.

In conclusion, God bless our troops, and we will not forget September 11.

Mr. Speaker, I urge my colleagues to support this resolution.

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

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from South Carolina (Mr. WILSON), the author and the lead sponsor of this concurrent resolution.

Mr. WILSON of South Carolina. Mr. Speaker, I thank the gentlewoman from Florida (Ms. ROS-LEHTINEN) for yielding me this time, and for her leadership on this issue and her leadership on the Committee on International Relations. It is particularly an honor for me to know my good friend, the gentleman from New York (Mr. ENGEL). It is wonderful we can be here together as Members of the House Israel Caucus.

Mr. Speaker, I urge my colleagues to join me in supporting House Concurrent Resolution 1615, which recognizes the 57th anniversary of the independence of the State of Israel. Since its establishment, Israel has served as a trusted home and safe haven for Jews all over the world. After World War II, Israel welcomed Jews who survived the horrors of the Holocaust.

Mr. Speaker, I have visited firsthand to see the country continue to embrace Jews who are eager to reestablish in their ancient homeland. By regularly holding free and fair elections, promoting the exchange of ideas, and vigorously exercising in its parliament, Israel is a shining model of democracy.

The evolution of this great Nation is a true testament to the power of democracy and the resiliency of the people of Israel. Throughout the past 57 years, the relationship between Israel and the United States has continued to strengthen. Israel is a trusted ally of the United States, and our two countries’ strategic partnership based on shared democratic values, friendship, and respect.

Additionally, I am grateful my home State of South Carolina and my hometown of Charleston were the home of the largest Jewish population in North America at the time of the American Revolution. Its provincial constitution was the first to recognize Judaism to be coequal to Christianity. The first Jew to be elected to public office in North America was in South Carolina. And the first time a Jew publicly ran for the cause of liberty during the American Revolution was a patriot from South Carolina.
Mr. HOLT. Mr. Speaker, I rise today in strong support of H. Con. Res. 149 which celebrates 57 years of an independent and democratic State of Israel. Today we remember and pay tribute to the creation of the State of Israel. The United States took only eleven minutes after Israel had declared a state to officially welcome her into the community of nations. For the last 57 years of the United States and Israel built a unique and strong and special relationship.

The creation of the State of Israel was a bold step in May of 1948. The first Prime Minister of Israel, David Ben-Gurion, once said that, "courage is a special kind of knowledge: the knowledge of how to fear what ought to be feared and how not to fear what ought not to be feared." It is from such courage that Israel was formed and it is that courage that maintains Israel as a vibrant and strong democracy today. We can all learn examples from the struggles that the citizens of Israel have endured and the grief they have overcome to remain a democratic outpost in the Middle East.

Yet, much work remains unfinished. We all remain troubled by the continued violence in the Middle East and we all continue to pray for a peaceful end to the years of violence and terror. The United States and our citizens learned all too well about the effects of terrorism on an early morning in September of 2001. In that one day, the nations of the world rallied to our side, offered aid, and pledged to assist us in any way possible. Yet, sadly, events like that September morning have been frequent occurrences in Israel. This fact can to easily be lost as the continued violence and terror is pushed off the front pages of our news papers and out of the nightly news on TV. That is why it is important now, more than ever, to remember and support our strongest and oldest ally.

I am proud to join with my colleagues today to reiterate our continued strong support of Israel, its right to defend itself and its people from terrorism, and to focus on the special relationship that exists between our two nations. I have had the privilege to travel to Israel on a number of occasions, and these visits have only reinforced my strong conviction that the United States needs to remain a strong partner of Israel and remain actively engaged in negotiating a peaceful and equitable agreement between the parties to this conflict.

Mr. Speaker, I am pleased to support this resolution in celebrating the 47 years of Israel’s existence as a beacon of democracy and hope in the Middle East. I also celebrate today the daily courage exhibited by the citizens of Israel and want to express my personal commitment to Israel at this important milestone in its history. I look forward to future anniversaries, and to the day when Israel and her citizens can live in peace without the need for constant vigilance.

Mr. VISKOFSKY. Mr. Speaker, I rise today in support of H. Con. Res. 149, a measure recognizing the 57th anniversary of the independence of the State of Israel. It is my honor to recognize this anniversary which marks the restoration of Jewish independence with the establishment of the State of Israel in 1948.

I commend the Israeli people for their remarkable achievements in building a new state and a pluralistic and democratic society in the Middle East in the face of terrorism and hostility. On this occasion, I extend my warmest congratulations and best wishes to the state of Israel and her people for a peaceful, prosperous, and successful future.

The renewal of the Jewish state in the Land of Israel, the birthplace of the Jewish people. In this land, the Jewish people began to develop its distinctive religion and culture some 4,000 years ago, and here it has preserved its unbroken cultural presence, for centuries as a sovereign state, at other times under foreign control.

On this 57th Anniversary of the establishment of the State of Israel, we recognize that the Israeli people have become one of the leading nations in the fields of science, technology, medicine, and agriculture. The people of Israel have established a vibrant and functioning pluralistic and democratic political system that guarantees the freedoms of speech and press and free, and open elections with respect for the rule of law. With a strong democracy in a troubled part of the world, Israel has absorbed millions of new immigrants from all over the world. Some of these immigrants arrived without a single possession, but Israel welcomed them by providing housing, education, social security, and health care.

I rise also to condemn the rising tide of anti-Semitism around the globe and to demonstrate the United States’ lasting bond of friendship and cooperation with Israel, which has existed for the past 57 years.

Mr. Speaker, at this time, I ask that you and my other distinguished colleagues join me in recognizing and paying tribute to the state of Israel and the 57th Independence Day and again extend my warmest wishes for a peaceful and prosperous future. I urge my colleagues to join me in supporting H. Con. Res. 149.

Mr. STEARNS. Mr. Speaker, I rise today in strong support of H. Con. Res. 149, honoring the 57th anniversary of Israel’s independence and thank the gentleman from South Carolina for introducing this resolution. From the ashes of the Holocaust, Israel rose to become a shining example of democracy and liberty in a neighborhood once dominated by totalitarian and dictatorially regimes.

The United States and Israel have had a special relationship since modern Israel’s founding in 1948. The U.S. was the first country to recognize Israel, only 11 minutes after it was officially created. Since then, the two countries have developed a rock-solid friendship based on shared values and the fundamental principles of freedom and equality.

A strong U.S.-Israel relationship is in the best interests of the United States and Israel stands shoulder-to-shoulder with the U.S. in counting the greatest threats to American interests in the region. When terrorists strike U.S. targets in the region or elsewhere in the world, Israel does not duck for cover but stands beside the U.S. In no other country in the world does the region support the American position at the United Nations as consistently as Israel.

Israel’s 57th anniversary is a great day for not only Israel but for freedom loving people all around the world.

Mr. CROWLEY. Mr. Speaker, I am proud to speak in strong support of the resolution today honoring the 57th anniversary of the Independence of the State of Israel.

I congratulate the people of the State of Israel and the greater Jewish community on the 57th anniversary of their independence.

The creation of the Jewish State in 1948 was met with the immediate support and recognition from the United States, and our country has continued to consider Israel our closest friend and strongest ally.

As Israel continues to fight against terrorist groups, it is more important than ever the United States continues to show our solidarity and provide whatever aid and support both economic and moral, to our friend Israel.

Israel, as the only truly democratic nation in the Middle East should be lauded for 57 years of democracy.

Israel continues to show the world that this small state which has been surrounded by aggressive states for most of its existence is here to stay. I believe the survival of the Jewish state is paramount and the United States must continue to encourage Israel’s sustained efforts to defend the freedoms and rights it has secured its citizens.

Since its independence, Israel has endured the unstable and troubling conditions in the Middle East that have sparked several wars and incited much violence.

Yet the Israeli people remain united and strong and continue to stand up for their nation. That is why I re-affirm the right of the Israeli people to always protect themselves and their state from the forces of terrorism, no matter where it may exist.

Israel is a modern success story, the only Democracy in the Middle East, the only Middle Eastern country where Arabs have the right to vote for their elected officials and their political leaders. Her detractors and those who hide their anti-Semitism behind anti-Zionism must not denigrate the success of Israel. I am proud to be one of Israel’s strongest friends in Congress and to wish Israel a hearty Mazel Tov on 57 years of Independence.

Mr. LANTOS. Mr. Speaker, I commend our colleague from South Carolina, JOE WILSON, for his effort in introducing this resolution and I am delighted to join him extending the heartfelt congratulations of the Congress and the American people to the Israeli people in recognition of the 57th anniversary of their independence, which they celebrated this month.

Mr. Speaker, Israel is a tiny island of refuge in the midst of a roaring sea of hostile neighbors. Although relentlessly under attack since their nation’s birth, the Israeli people have succeeded in creating the only democracy in the Middle East, and one of the most prosperous, technologically advanced, and reliably just societies on earth.

In the 57 years of its independence, Israel has absorbed millions of Jewish immigrants from all around the world, including over a million immigrants from the former Soviet Union in just the past 15 years. This is a remarkable and unprecedented achievement for a country whose population was only 600,000 in 1948.

Israel has given immigrants the opportunity to live lives of dignity and equality in a free society—people who otherwise would have lived, at best, as second- or third-class citizens in the countries they left behind.

An indication of the vibrancy and vitality of Israeli democracy, Mr. Speaker, is the fact that Israel celebrates its anniversary this year as it prepares to resettle civilian settlements and
The SPEAKER pro tempore. The question is on the motion offered by H. Con. Res. 89 honoring the life of Sister Dorothy Stang.

HONORING THE LIFE OF SISTER DOROTHY STANG

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 89) honoring the life of Sister Dorothy Stang.

H. CON. RES. 89

Whereas Sister of Notre Dame de Namur Dorothy Stang, moved to the Amazon 22 years ago to help poor farmers build independent futures for their families, and was murdered on Saturday, February 12, 2005, at the age of 73, in Anapu, Para, a section of Brazil’s Amazon rain forest;

Whereas, a citizen of Brazil and the United States, Sister Dorothy worked with the Pastoral Land Commission, an organization of the Catholic Church that fights for the rights of rural workers and peasants, and defends land reforms in Brazil;

Whereas her death came less than a week after meeting with the human rights officials of Brazil about threats to local farmers from some loggers:

Whereas, after receiving several death threats, Sister Dorothy recently commented, “I don’t want to flee, nor do I want to abandon the battle of these farmers who live without any protection in the forest. They have the sacrosanct right to aspire to a better life on land where they can live and work with dignity while respecting the environment.”;

Whereas Sister Dorothy was born in Dayton, Ohio, entered the Sisters of Notre Dame de Namur community in 1948, and professed final vows in 1956;


Whereas, last June, Sister Dorothy was named “Woman of the Year” by the state of Para for her work in the Amazon region, in December 2004, she received the Humane Rights Commissioner’s Award for her work in the Amazon region;

Whereas, from 1986 to 1998, Sister Dorothy was the executive director of the Pastoral Land Commission despite continuing on in her work with the Pastoral Land Commission despite death threats;

Today, we stand together to remember Sister Dorothy’s extraordinary life.

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

HONORING THE LIFE OF SISTER DOROTHY STANG

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this concurrent resolution. I want to congratulate the gentleman from Ohio (Mr. RYAN) for his leadership in commemorating the life and work of Sister Dorothy Stang.

Mr. Speaker, Dorothy Stang stood firmly on the side of the weak and disposed in the Brazilian rainforest for over 40 years. Her willingness to defend the indigenous people ultimately led to her untimely and tragic death.

Dorothy Stang entered the Sisters of Notre Dame de Namur community in 1948, and professed final vows in 1956. In 1966, she began her very important ministry in Brazil.

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HONORING THE LIFE OF SISTER DOROTHY STANG

Ms. ROS-LEHTINEN. 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 to the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida (Ms. ROS-LEHTINEN) to extend unanimous consent to an extension of remarks and the inclusion of extraneous material to the concurrent resolution under consideration?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

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voiceless before the powerful Pastoral Land Commission.

In her work, Sister Stang took on powerful land interests, and steadfastly defended small groups of families and their traditional ways of life. Sister Stang taught the local communities ways to achieve sustainable development and peaceful community living.

Because she was a thorn in the side of those powerful interests, Sister Dorothy received numerous death threats, but she always shrugged them off. She did so not carelessly or lightheartedly, but with a deep sense of the importance of her work and the peaceful approach to conflicts she had always promoted.

With the brutal murder of Sister Stang in February, the indigenous communities of the rainforest have lost one of their most powerful voices. Indeed, Brazil has lost one of the most respected human rights leaders.

We call on the Brazilian Government to protect not only the people who pulled the trigger, but also those who devised the evil plot to kill her for sheer financial greed.

Sister Dorothy Stang leaves a huge legacy which puts the burden on the Brazilian governments to protect those communities for whom Sister Stang gave her life.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I yield 7 minutes to the gentleman from Ohio (Mr. RYAN), the author of this resolution.

Mr. RYAN of Ohio. Mr. Speaker, I rise today in support of H. Con. Res. 89, and I thank the gentleman from New York (Mr. ENGEL) and offer very warm thanks to the gentleman from Illinois (Chairman HYDE) and to the ranking member, the gentleman from California (Mr. LANTOS), for their leadership and support on this resolution which honors the life and the work of Sister Dorothy Stang.

I would also like to acknowledge Sister Dorothy’s family, her sister, Marguerite, and her family from Fairfax, Virginia, and her brother, David Stang from Denver, Colorado.

Sister Dorothy was an American Catholic nun with the Order of Sisters of Notre Dame de Namur. She was originally from Ohio, but had moved to Brazil nearly 40 years ago with four other sisters of Notre Dame in response to a call from Pope John XXIII who asked religious communities around the world to serve in Latin America.

She worked in earnest to profess the order’s mission, to educate and stand with the poor. Sister Dorothy also worked with the Pastoral Land Commission, an organization of the Catholic Church that fights for the rights of rural workers and peasants. Sister Dorothy’s selfless way of life brought comfort and hope to an area of the world wrought with corruption and despair. She was committed to social justice, and worked tirelessly to help poor farmers with sustainable development techniques, minister and teach the men of the village to be faith leaders, and help in the building of houses and school rooms.

Sister Dorothy taught the women of Brazil to sew and to sell clothing to finance the dam to provide electricity to their community. She pioneered 21 community centers. These centers taught agriculture, health care, education, and spirituality.

Although she was a profound leader and her work did not parallel her life’s work, Sister Dorothy was brutally murdered on February 12 of this year after receiving several death threats from loggers and landowners. Knowing of this grave danger, Sister Dorothy wrote, “I do not want to flee, nor do I want to abandon the battle of these farmers who live without any protection in the forest. They have the sacrosanct right to aspire to a better life on land where they can live and work with dignity while respecting the environment.”

She then went on to say, “I am grateful to Notre Dame for not asking me to leave. This shows we are aware of the needs of the poor. The Sisters have said they are worried about any safety. It is not my safety, but that of the people which matters.”

At the time of her death, Sister Dorothy had just traveled to drop off cloth and food to families whose homes had been burned by ranchers and loggers. She was approached by two gunmen, and knowing her fate, reached into her cloth bag, took out her Bible and began reading the Beatitudes, “Blessed are the peacemakers for they shall be called the children of God.”

Sister Dorothy Stang is a true martyr. She lived and died teaching and fighting for peace and justice among a people who were poor and disenfranchised. She lifted up the oppressed and taught people about their rights. Sister made the statement “Woman of the Year” by the state of Para for her work in the Amazon, and in 2004 she received the Humanitarian of the Year award from the Brazilian Bar Association for her work in the region.

Sister Dorothy’s dream was to have an area of land set aside by the federal government of Brazil as a federal reserve where the poor families and landless peasants would be safe, where they could farm the land, build their own income-producing businesses, and above all, where they could live in peace and dignity without threats to their lives.

Sister Dorothy reminds us all to be courageous and to work for what we believe in. We must all be champions of our principles and causes, and that our religion is not merely a set of beliefs, but a series of actions. She gave her life to protect the downtrodden and forgotten, fulfilling her true calling as a prophetic martyr who lived and died teaching and fighting for justice.

I hope that this simple act of commemoration will not be the end of Sister Stang’s story, but the very beginning. That Congress will use this opportunity to demonstrate its concern for inequality and poverty all over the world by making available the resources needed to combat these social ills.

Finally, Mr. Speaker, President Kennedy once said in a speech at Amherst College, honoring Robert Frost, that “A nation reveals itself not only by the men it produces, but also by the men it honors.”

Today we honor a fearless, selfless defender of peace, a champion in sustainable development, a person affectionately known as “Irma Dorothy,” and “Angel of the Amazon,” a brave martyr, Sister Dorothy Stang.
postwar Communist government reaffirmed most of these confiscations;  
Whereas only a handful of Jewish communal properties have been restored, often with government agencies still using the facilities and paying no rent, and over 1,000 communal properties remain in the possession of the Government of Romania;  
Whereas claims have been willfully ignored for years, such as in the case of agricultural land in Iași, where municipal authorities continue to sell parcels of this land;  
Whereas on January 2, 1990, under terms of Decree-Law 126/1990, the 1948 decree which dissolved the Romanian Greek Catholic Church was abrogated, permitting Greek Catholics again to worship openly, and legal provisions and procedures were established for the return of confiscated properties that before 1948 belonged to the Greek Catholic Church;  
Whereas the commission established under Decree-Law 126/1990 composed of representatives of the Romanian Government and Greek Catholic Church has proven ineffective in resolving disputed claims;  
Whereas Romanian Law No. 501/2002, providing for the restitution of religious properties, was adopted in June 2002 without consultation with the affected religious communities, does not effectively meet the needs of those communities, contains numerous legal deficiencies, and is delayed in its implementation;  
Whereas all of the religious communities have demanded the return of property seized by the Romanian Communist government;  
Whereas since 1990, post-Communist countries in Central and Eastern Europe have grappled with the question of how to resolve these wrongful confiscations of religious property, but Romania has lagged significantly behind other post-Communist countries;  
Whereas since the early 1990s, the United States Commission on Security and Cooperation in Europe has monitored the property restitution and compensation efforts being made by the governments of post-Communist countries in Central and Eastern Europe;  
Whereas with respect to the role of the Romanian Communist government in recognizing the Chairman of the United States Commission on Security and Cooperation in Europe observed: The hundreds of court decisions in favor of property claimants were reversed by the Supreme Court after they had become final and irrevocable judgments. The European Court of Human Rights recently ruled that these actions violated the European Convention on Human Rights:; and  
Whereas Article 18 of the Universal Declaration of Human Rights provides that [(e)veryone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.]; and  
Resolved, That the House of Representatives—  
(1) notes with concern the unwillingness of past Romanian governments to recognize the responsibility to provide equitable, prompt, and fair restitution of religious property that was confiscated by the former Communist government of Romania;  
(2) calls on the Government of Romania—  
(A) to respect the constitutional rights of existence and practice of all religious communities and practice the freedom of religion in respectable locations, the right to propagate the given beliefs, and the right to openly communicate the beliefs and laws of the religion;  
(B) to provide fair, prompt, and equitable restitution to all religious communities under the constitution and in accordance with the Constitution of Romania and all applicable international agreements to which Romania is a party; and  
(C) to provide for the property rights of all agricultural and forestry lands belonging to religious communities;  
(3) calls upon the Government of Romania to amend Decree-Law 126/1990 to require that claims involving Romanian Greek Catholic properties be heard by an independent, disinterested, nonreligious commission, and calls for amendment of Romanian law to prevent the demolition of Greek Catholic churches and to provide immediately for the security of all Greek Catholic churches and other religious buildings dating from the 18th and 19th centuries; and  
(4) with respect to Romanian Law No. 501/2002, calls upon the Government of Romania—  
(A) to amend the law to reflect the principle of “restitution in integrum” as urged by Resolution 1123/1997 of the Parliamentary Assembly of the Council of Europe and to restate full ownership of all property and all rights emanating from such ownership;  
(B) to amend the law to reduce the five-year period during which public institutions can continue to occupy confiscated religious properties;  
(C) to amend the law to include compensation, according to an equitable formula, for demolished religious properties;  
(D) to increase to fair market value the amount of rent paid to religious communities for properties which they cannot immediately regain use under law;  
(E) to eliminate the practice of requiring monetary compensation from religious communities for maintaining or “improving” of the buildings since their confiscation in the 1980s; and  
(F) to oblige local government officials, bodies, and agencies to provide all necessary documentation and cooperation to facilitate the implementation of decisions issued by the central government’s Special Restitution Commission and to accelerate the return of properties of which they cannot immediately regain use under law;  
Whereas the religious communities that have been adversely affected include the Romanian Greek Catholic Church, the Roman Catholic Church, the Hungarian Reformed Church, the Evangelical Lutheran Church, as well as the Unitarian Church, the Jewish community, and other religious communities. Given the inherent injustice in the confiscation of these properties as well as Romania’s desire to engage with other democracies through Euro-Atlantic institutions such as NATO and the European Union, Romania must take steps to accelerate the return of these properties to their rightful owners.  
Mr. Speaker, it is time for the government of Romania to face its responsibilities and implement what is necessary to resolve these issues. I urge the adoption of this important resolution.  
Mr. Speaker, I reserve the balance of my time.  
Mr. ENGEI. Mr. Speaker, I yield myself such time as I may consume. I rise in support of House Resolution 191.  
I first want to thank the gentleman from Illinois (Mr. HYDE) for his effort in bringing this resolution forward for action in the House today. I also want to acknowledge our colleagues who introduced this legislation: the gentleman from California (Mr. LANTOS) and the gentleman from Colorado (Mr. TANCREDO). As our colleagues know, the gentleman from California (Mr. LANTOS) has had a longstanding interest and concern for Central Europe and these issues involving religious liberty.  
Mr. Speaker, freedom of religion is one of the most important of the blessings of liberty that is assured to us in the United States by the first amendment to the Constitution and also a freedom that is explicitly guaranteed in the universal declaration of human rights. Article 18 states: “Everyone has
the right to freedom of thought, conscience and religion and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

It is not enough, Mr. Speaker, for men and women to have freedom of conscience to believe what they choose. It is also essential that they have the right to join with others of like mind to practice and worship together as a religious community; and for this right to be meaningful, they must have the right to control property that they can use for religious, charitable, and educational purposes consistent with their beliefs.

The important resolution that we are considering today goes to the heart of this problem, and it raises serious questions about continuing difficulties of some religious communities in Romania, like many other countries in Central and Eastern Europe. The Romanian Orthodox Church, the Roman Catholic Church, the Unitarian Church, the Romanian Unitarian Church, the Romanian Greek Catholic Church, the Jewish religious communities in Romania, and the Roman Catholic Church but which observes the Greek Catholic Church, a community which is primarily Romanian, have both criticized the succession of Romanian governments' failure to satisfactorily deal with the problems. House Resolution 191 urges the newly elected government to take the initiative and work to solve religious property restitution. The government has recently adopted legislation that attempts to deal with some of the issues, and we welcome that effort to put some legal structure in place to solve these problems. It will require active and continuing efforts, however; and we urge the government to take those steps.

Members of all of these religious communities in Romania have immigrated to the United States over the past century and before, and most of the Members of this Congress have constituents who have expressed concern to us about these issues. Mr. Speaker, the resolution singles out the three categories of religious communities from restitution, property restitution, and religious community. Why has this process been particularly slow and unsatisfactory in Romania? The Jewish community saw its properties confiscated beginning in September of 1940 under the Fascist government that preceded the Communist government, but the Communist government reaffirmed these confiscations after it came to power. Only a handful of Jewish communal properties have been restituted and over 1,000 communal properties are still under government control.

The religious communities of the Hungarian ethnic minority have also faced the same problem. Over 2,000 schools, hospitals, orphanages and other charitable and civic properties were seized from the Roman Catholic Church, which in Romania is primarily Hungarian; the Hungarian Reformed Church; the Evangelical Lutheran Church; and the Hungarian Unitarian Church.

The third community is the Greek Catholic Church, a community which is united with the Roman Catholic Church but which observes the Greek Orthodox liturgy. In 1948 the Greek Catholic Church was dissolved, and its members were forcibly merged with the Romanian Orthodox Church and its properties either seized by the government or given to the Romanian Orthodox Church. In 1990 the Romanian Government adopted legislation to recognize the existence of the Greek Catholic community and permit its members to worship openly. Unfortunately, the legal provisions to resolve property restitution have been singularly unsuccessful.

With the support of the Office of Human Rights and the Commission on Security and Cooperation in Europe have both criticized the succession of Romanian governments' failure to satisfactorily deal with the problems. House Resolution 191 urges the newly elected government to take the initiative and work to solve religious property restitution. The government has recently adopted legislation that attempts to deal with some of the issues, and we welcome that effort to put some legal structure in place to solve these problems. It will require active and continuing efforts, however; and we urge the government to take those steps.

Mr. Speaker, as a cosponsor of this resolution, I urge my colleagues to support it.

Mr. SMITH of New Jersey. Mr. Speaker, I am pleased to be a cosponsor of this bill, and I commend Mr. LANTOS and Mr. TANCREDO for bringing this matter before the Congress. The process of providing restitution or compensation for property confiscated by former regimes in Romania has been slow, complicated and difficult. We have raised concerns about this situation for many citizens and, in my view, a destabilizing factor in Romanian society.

As of July 2003, more than 200,000 claims for property restitution have been filed with only 15,000— or 7 percent—resolved. The situation for religious and communal properties is equally as dismal. Of the more than 7,500 claims for communal properties, less than 600 have been approved for restitution. The resolution before us addresses the plight of religious and communal properties in Romania.

Mr. CARDIN. Mr. Speaker, I rise in support of H. Res. 191 and I commend Mr. LANTOS and Mr. TANCREDO for bringing the issue of property restitution in Romania before the Congress.

More than 15 years since the fall of the communist regime in Romania, tens of thousands of claims for the restitution of, or compensation for, properties confiscated by the former regime. This situation is a source of anger and resentment for many citizens and, in my view, a destabilizing factor in Romanian society.

To date, more than 200,000 individual claims for property restitution have been filed with only 15,000— or 7 percent—resolved. The situation for religious and communal properties is equally as dismal. Of the more than 7,500 claims for communal properties, less than 600 have been approved for restitution.

The resolution before us addresses the plight of religious and communal properties in Romania.

Mr. Speaker, I was pleased that the new government of Romania recently announced its intention to promote Property Restitution to implement Romania's property restitution laws, and it is my understanding that next week a legislative package designed to remedy these property issues is expected to be introduced. Apparently special attention will be paid to properties once belonging to religious communities and national minorities. The goal is for all outstanding claims to be resolved by the end of 2006. This would be a welcomed achievement.

For 15 years, these property claims have been a source of anger and frustration for so many Romanians. The political will being demonstrated by President Basescu and his government is commendable. Mr. Speaker, I join my colleagues in this action today, encouraging the Romanian authorities to provide equitable, prompt, and fair restitution of the confiscated properties.

Further, the plight of Romania's Greek Catholic (Uniate) Church, which was banned by the communist government in 1948, is particularly distressful. More than 2,000 churches and other buildings seized from the Uniates were given to Orthodox parishes. The government decision that dissolved the Greek Catholic Church was abrogated in 1989; however, fewer than 200 of their confiscated properties have been returned.

Mr. Speaker, I was pleased that the new government of Romania recently announced its intention to promote Property Restitution to implement Romania's property restitution laws, and it is my understanding that next week a legislative package designed to remedy these property issues is expected to be introduced. Apparently special attention will be paid to properties once belonging to religious communities and national minorities. The goal is for all outstanding claims to be resolved by the end of 2006. This would be a welcomed achievement.

For 15 years, these property claims have been a source of anger and frustration for so many Romanians. The political will being demonstrated by President Basescu and his government is commendable. Mr. Speaker, I join my colleagues in this action today, encouraging the Romanian authorities to provide equitable, prompt, and fair restitution of the confiscated properties.
The four historic Hungarian religious communities—the Roman Catholic, the Hungarian Reformed, the Evangelical Lutheran, and the Unitarian churches—lost over 2,000 schools and other buildings used for charitable and humanitarian activities. Possession and use of these properties by religious entities continues today in all but about thirty instances.

The Greek Catholic Church in Romania is one of the most complicated and clearly one of the most frustrating cases. In 1948, the Greek Catholic Church, which recognizes the authority of the Pope in Rome but uses the Greek Orthodox liturgy, was forcibly merged with the Romanian Orthodox Church, and its properties were merged as well or seized by the government. In 1990 the decree of 1948 was abrogated, but untangling the properties after more than a generation has been extremely difficult.

Mr. Speaker, we have seen Romanian governments delaying and postponing restitution, the Romanian courts have reversed cases that had already been resolved, and inaction by government officials has prevented equitable resolution of the vast majority of these property claims. The European Court of Human Rights ruled that the actions of various Romanian governments in religious property restitution cases violated the European Convention on Human Rights. Our resolution calls upon the Romanian Government to respect and resolve these religious restitution cases in a fair, prompt and equitable manner. In the case of the Greek Catholic Church, it calls upon the government to amend fundamentally the legislation establishing a commission for resolution of conflicting claims. In cases where property cannot be restituted within a period of one year, our resolution calls for fair compensation until the restitution can be carried out.

Mr. Speaker, I urge all of our colleagues to support this resolution urging the Government of Romania to recognize its responsibilities to provide equitable, prompt, and fair restitution to all religious communities for property confiscated by the former Communist government in Romania.

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

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question was taken; and (two-thirds having voted in favor thereof) the rules and agree to the resolution, H. Res. 191, as amended.

H. RES. 191

Resolved, That it is the sense of the House of Representatives that—

(1) Syria should complete its withdrawal of all remaining intelligence and security forces from the Lebanese Republic in accordance with United Nations Security Council Resolution 1559 (2004);

(2) Lebanon should allow unfettered access to international monitors present for the purpose of verifying compliance with United Nations Security Council Resolution 1559 (2004);

(3) Lebanon should hold free, fair, and transparent elections to begin on May 29, 2005, in accordance with all international standards and agreements;

(4) the United States should aid the people of Lebanon in their efforts to restore the separation of powers, the rule of law, and a proper respect for fundamental freedoms of every citizen; and

(5) it should be the policy of the United States Government to—

(a) support free and fair elections in Lebanon by encouraging international election assistance and observers;
May 23, 2005

CONGRESSIONAL RECORD—HOUSE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The Chair recognizes the gentleman from New York (Mr. ENGEL) and the gentleman from New York (Ms. ROS-LEHTINEN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Today I stand here filled with emotion and hope. When the gentleman from New York (Mr. ENGEL) and I began working on legislation that expressly called for Syria’s full and unconditional withdrawal from Lebanon toward the restoration of the Lebanese independence, we could not have imagined that this day would come just a few years later. This is a testament to the unwavering commitment, determination, and courage of the Lebanese people and to the tireless efforts of the Lebanese-American community in the United States.

The elections scheduled to begin on May 29 mark a very important moment; but it is only the beginning of a journey toward sovereign and free, democratic governance. Electoral reform is necessary to ensure that future parliamentary and municipal elections are to be considered fair. We must help the Lebanese people in their quest for a free and fair electoral law as opposed to the current Syrian-orchestrated 2000 law that discriminates against certain sectors of Lebanese society and would actually help perpetuate Syrian influence in Lebanese politics.

The resolution reflects our commitment to supporting the people of Lebanon in their quest to strengthen civil society, develop democratic institutions and safeguards, and transcend sectarian divisions. A free and democratic Lebanon would have the potential to become a model for the region and a source for stability and peace.

Within this context, we must work to ensure full and immediate implementation of all aspects of U.N. Security Council Resolution 1559, beginning with the immediate verification that Syria has withdrawn all security and intelligence forces from Lebanon. That must include the removal of pro-Syrian security officers such as the military intelligence chief, the police chief, the directors of general security and state security. United Nations Security Council Resolution 1559 clearly calls for free and fair elections devised without foreign interference and influence.

The Syrian armed forces manipulation of the election registration process to allow Syria to keep its tentacles in Lebanese politics.

Simultaneously, steps must be undertaken, both bilaterally and in consultaation with our allies and the United Nations, to ensure the immediate and unconditional disarming of all militias and terrorist organizations prior to the next round of elections.

The people of Lebanon should not have to live under repressive terrorist organizations any more than being forced to live under an oppressive Syrian-sponsored regime. For freedom and justice to fully blossom in Lebanon, all Lebanese prisoners of conscience held in Syrian Lebanese jails must be released and the disappeared must be fully accounted for.

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The policy of apathy must end. Lebanon was once a land of promise, a vibrant democratic society known as the “Paris of the Middle East.” Ending the occupation and conducting free, fair, and transparent elections would take Lebanon one step closer to realizing its full promise.

To the people of Lebanon, I would like to say that they are an inspiration to us all. They remind us of how precious liberty is; and we assure them, as they stand for their independence and freedom, that the United States will stand with them.

I want to thank the distinguished gentleman from Michigan (Mr. MCCOTTER) for introducing this important resolution. It was a pleasure working on this text with the gentleman from Michigan (Mr. MCCOTTER) and the gentleman from New York (Mr. ENGEL), my partner on all of these issues. My utmost appreciation goes to the gentleman from Illinois (Chairman HYDE) and the gentleman from California (Mr. LANTOS), ranking member of the Committee on International Relations, as well as to our leadership for moving this resolution expeditiously and bringing it to the floor.

I urge my colleagues to support this measure and, in turn, to support the Lebanese people in their efforts to cast off the shackles of tyranny and occupation.

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

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

I rise in strong support of this resolution. I would first like to commend the gentleman from Michigan (Mr. MCCOTTER) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) for their work and continued support and enabling us to bring forward this resolution today.

It is an honor to stand on the floor of the House today, approximately 1 month after the Syrian armed forces ended their military occupation of Lebanon. Lebanon is at a crossroads, a place from which it can move forward towards democracy and freedom or take steps back toward the violence which tore it apart so many years ago. The people of the Lebanese Republic have a rich, proud, and honorable history dating from ancient times to the present, and Lebanon has been a free and democratic nation for most of its modern history. Lebanon and the United States have a long history of friendship and cooperation which has been witnessed by the immigration of millions of Lebanese to the United States where they and their descend ants have contributed greatly to the fabric of American life.

Let me say, Mr. Speaker, that in my years in Congress, I have had the honor and the pleasure to make many friends in the Lebanese American community, and I am proud of the contributions they have made to our country and American policy toward Lebanon. The Lebanese American community was a very important part of the Syria Accountability Act, and the Lebanese American community has played and is continuing to play a very important part in the freedom and democracy of Lebanon.

However, tragically, Syria dominated Lebanese politics and political leaders their occupation, resulting in a deterioration of Lebanon’s human rights situation, the engineering of Lebanese election results to Syria’s liking and the imposition of curbs on Lebanon’s media, once the freest in the Arab world.

Lebanon, in effect, became a Syrian satellite state where none of its leaders would dare defy the Syrian regime in Damascus. Yet a series of events caused pressure on the Syrian regime to grow. Beginning with the passage of the Syria Accountability and Lebanese Sovereignty Act, Congress showed very strongly that we would not tolerate this continued Syrian occupation of Lebanon.

While Syria could have made smart choices at any point, it never did, and pressure continued to grow for its full withdrawal from Lebanon, again with the President’s signing the Syria Accountability Act 1 year ago. Our law
ultimately led to the Security Council’s adoption of Resolution 1559, which demanded Syria’s withdrawal from Lebanon and the disarmament of Hezbollah and other armed groups. Yet the most recent developments in the region to leave Lebanon were sparked by the terrorist murder of former Prime Minister Rafik Hariri in Beirut. His assassination, which must still be thoroughly investigated by Lebanon and the international community, triggered a series of protests with hundreds of thousands of Lebanese taking to the streets. At one point in one of the demonstrations, literally one-quarter of the entire population of Lebanon took to the streets of Beirut to demand that the Syrian occupation end.

Yet, while Syria has today withdrawn its military forces from Lebanon, reports indicate that it has left behind a pro-Syrian intelligence structure within the Lebanese intelligence agencies there are lots of spies, Syrian spies, still in Lebanon and lots of Syrian nationals still in Lebanon trying to control things. These people must leave, as well, and the sooner the better.

And it must be pointed out, Mr. Speaker, that not all parts of Security Resolution 1559 have been implemented. Hezbollah, the terrorist organization which receives support from Iran and Syria, remains armed to the teeth and occupies much of southern Lebanon. As Hezbollah has not given up its weaponry and its intent to maintain a military answer to the political questions of the Middle East, Hezbollah must remain completely isolated by the international community.

Earlier this year, the House passed a resolution urging the European Union to put Hezbollah on its terrorist list. As we consider this resolution today, let us renew that call. Hezbollah is a terrorist organizations.

Finally, all political prisoners and the “disappeared” must be released and returned to their families. They are still existing in Lebanon, and we must get to the bottom of the disappeared people as well.

Today, the United States must stand for the same basic values in Lebanon to which we adhere at home and around the world.

Mr. Speaker, Lebanon is scheduled to hold elections on May 29, this Saturday. As such, Congress stands with the Lebanese people as they proceed to restore democracy in their once again sovereign nation. It is our hope that the upcoming elections will be free, fair, transparent, and in accordance with all relevant international standards on elections.

However, I must express one note of concern about the elections. The electoral districts in which Lebanese candidates for parliament run later this week were drawn in accordance with the 2000 electoral law, which was written by the Syrian-dominated regime during the occupation. I am concerned that this has deprived many Lebanese from true representation as the districts were apparently drawn unfairly, packing certain groups of people into some districts while underrepresenting others. However, once these elections are completed, the United States should help Lebanon in their efforts to restore the separation of powers, the rule of law, the changing of these districts, and the proper respect for fundamental freedoms of every citizen. As goes the rule of law in Lebanon, so goes the individual, so goes the nation.

Mr. Speaker, as the sponsor, with the gentlewoman from Florida (Ms. ROS-LEHTINEN), of the Syria Accountability Act, it is an honor to be on the floor today in support of this important resolution, and I strongly urged a “yes” vote.

Mr. LANTOS. Mr. Speaker, next Sunday the people of Lebanon will go to the polls to start a series of parliamentary elections that will determine the future of this country. This resolution expresses Congress’s ongoing concern that the Lebanese people be allowed to choose their own leaders freely and fairly, in light of the recent withdrawal from Lebanon of all Syrian security forces and intelligence officials, which must completely. I commend our colleague Ms. ROS-LEHTINEN for bringing these important issues before us.

Mr. Speaker, freedom-loving people everywhere cheered earlier this year when the Lebanese people defied the odds, spurred on by the assassination of former prime minister Rafik Hariri, and peacefully rose up and forced the caretaker government to step down, letting key exile leaders return, and leading to the expelling of nearly all of Syria’s uninformed forces from long-occupied Lebanese soil. We all hope that there will continue to be a peaceful transition to sovereign, democratic rule in Lebanon.

Sadly, the upcoming elections saw their first casualty this weekend, when adherents of rival parties clashed in the region of Metn. Government troops were summoned to disperse the crowds, and as they did so, one man was shot and killed. It was a somber reminder of how volatile the situation surrounding the elections can be.

Political rivalries, particularly between pro-Syrian factions and those who seek to continue reforms, threaten to further destabilize the electoral process in Lebanon; some have already threatened to boycott, which could undermine the legitimacy of the process. And the elections will be conducted according to a law passed under full Syrian occupation five years ago, which continued in favor of the Syrian elements, particularly Hezbollah. Let us hope that the wisdom of the Lebanese people, displayed in vast numbers, will over-ride the structural deficiencies of the law.

Mr. Speaker, I strongly support this resolution’s advocacy of U.S. assistance to help Lebanon restore democratic rule, including the separation of powers, the rule of law, and respect for fundamental freedoms. It is undeniably in our interest to support this process, as the flourishing of democracy in Lebanon will no doubt have a positive effect throughout the region.

Jordan’s King Abdullah, speaking this weekend at the World Economic Forum meeting, said that this is a time for positive political reform in the Middle East, but it is Arabs themselves who need to develop it.

“Never has there been a greater sense of agreement that the future is in our hands,” King Abdullah said. “Today, positive change is in the air across the region. It is an effort for the whole Middle East to create its own positive change. That demands a real-world perspective, and to speak specifically in terms of the region, the region, regional governments and civil society.”

Mr. Speaker, one such specific step for Lebanon will be to fulfill its obligations under U.N. Security Council Resolution 1559, especially the requirement that all militias, including Hezbollah, be disarmed and disbanded. We will support the Lebanon to put an immediate halt to the flow of arms across the Syrian border to Hezbollah as a first step.

Four years ago I sponsored legislation passed by the Congress that made a portion of U.S. aid to Lebanon contingent upon Lebanon’s taking control of all of its borders. I do not intend to introduce a similar resolution at this moment, as I believe that the new Lebanese government, once it gains its footing, will take the necessary actions to demonstrate its adherence to all aspects of U.N. Security Council Resolution 1559—the resolution that made possible Lebanon’s rebirth as a nation.

But I will remain seized with these issues regarding Lebanon’s borders and Hezbollah—and, in the near future, I will introduce a resolution that I hope will demonstrate that Congress shares these concerns. The stability of the entire region depends on an end to militant activity in Lebanon and full implementation of Lebanese sovereignty throughout that country and along all of its borders.

The resolution before us, Mr. Speaker, focuses on certain crucial ingredients of Lebanese sovereignty—the withdrawal of Syrian troops and the holding of free and fair elections. This is an important resolution. I support it, and I urge all of my colleagues to do likewise.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today as a long time supporter of free and fair democratic elections in the Middle East and throughout the world. Clearly, I am in support of free and fair democratic elections in Lebanon, every human being deserves the right to choose their leaders without the fear of persecution and retribution. I stand firmly in favor of honoring the voice of the Lebanese people, who have clearly called for democratic reform. I can not deny that Syria has had a long mixed history in Lebanon, clearly the will of the Lebanese people dictated it was time for the Syrian forces to leave. However, I do not believe complete condemnation of the nation of Syria will yield the results we seek. We must continue to push for completely free and fair elections in Lebanon, but I feel that we must engage Syria in a dialogue instead of turning a cold shoulder to them.

I fully support the idea that Syria should complete its withdrawal of all remaining intelligence and security forces from the Lebanese Republic in accordance with United Nations Security Council Resolution 1559. However, I do not believe we should condemn Syria for their relationship with Lebanon, but we must now engage in an examination to determine if the current relationship between Syria and Lebanon can now be improved. We must seek
to build relationships in the Middle East as opposed to tearing them down. Our goal is to establish greater stability and a more free society in the Middle East; to accomplish these lofty goals we must press forward with new initiatives as opposed to complete condemnations. Therefore, we must push for international support in Lebanon so that their people can enjoy free, fair, and transparent elections can be held on May 29, 2005, in accordance with all international standards and agreements. We must ensure that no outside nation or entity has undue influence on these elections, which should be determined only by the will of the Lebanese people.

I am in support of H. Res. 273 because the ideal of free and fair elections cannot be questioned, especially when sanctioned by international law. However, I do hope the sponsors and supporters of this resolution will try to use this as an opportunity to open relations with Syria instead of further closing them. If we are to have true success in the Middle East we must ensure that we reach out to every nation in the region and its people, otherwise we are only cheating ourselves of a historic prospect for peace.

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

Ms. ROS-LEHTINEN. Mr. Speaker, I have further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 273, as amended.

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

The title of the resolution was amended so as to read: “Resolution recognizing the courageous efforts of the people of Lebanon to restore their independence and urging the withdrawal of Syrian forces from Lebanon, the support for free and fair democratic elections in Lebanon, and the development of democratic institutions and safeguards to foster sovereign democratic rule in Lebanon.”

A motion to reconsider was laid on the table.

WELCOMING HAMID KARZAI AND SUPPORTING STRONG AND ENDURING STRATEGIC PARTNERSHIP BETWEEN UNITED STATES AND AFGHANISTAN

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 153) welcoming His Excellency Hamid Karzai, the President of Afghanistan, on the occasion of his visit to the United States in May 2005 and expressing support for a strong and enduring strategic partnership between the United States and Afghanistan.

The Clerk read as follows:

H. Con. Res. 153

Whereas Afghanistan, a great nation located at the crossroads of many civilizations, has suffered the ravages of war, foreign intervention, occupation, and oppression;

Whereas the Afghan people courageously resisted the occupation of their country by the former Soviet Union, forcing a Soviet withdrawal in 1989 and thereby contributing to the end of the Cold War;

Whereas, during the period of Soviet withdrawal, Afghanistan went through a period of chaos and conflict, exacerbated by insufficient attention from the international community, during which time the Taliban seized control of much of the country and provided a base of operations to Al Qaeda and other terrorist elements;

Whereas following the terrorist attacks of September 11, 2001, the United States launched Operation Enduring Freedom, liberating the Afghan people from tyranny, transforming Afghanistan from a haven for terrorists into a strategic partner in the struggle against international terrorism, and helping Afghans build a democratic government;

Whereas the Afghan Constitution, drafted by a broadly representative Loya Jirga, or Grand Council, and enacted on January 23, 2004, provides for equal rights for full participation of women, mandates full compliance with international norms for human rights and civil and religious freedoms for free and fair elections, creates a system of checks and balances between the executive, legislative and judicial branches, encourages free and fair private enterprise, and obligates the state to prevent all types of terrorist activity and the production and trafficking of narcotics;

Whereas more than 10.5 million Afghan men and women voted in national parliamentary elections in October 2004, demonstrating democracy, courage in the face of threats of violence, and a deep sense of civic responsibility;

Whereas Hamid Karzai, formerly the interim President, was elected to a five-year term as Afghanistan’s first democratically-elected President in the country’s history;

Whereas nationwide parliamentary elections are planned for September 18, 2005, and further demonstrate the Afghan Government’s commitment to adhere to democratic norms;

Whereas the Government of Afghanistan has demonstrated a firm commitment to halting the cultivation and trafficking of narcotics and poppies, fully with the United States and its allies on a wide range of counter-narcotics initiatives;

Whereas in addition to military and law enforcement, President Karzai welcomes the United States and the international community to assist Afghanistan’s counter-narcotics campaign by supporting programs to provide alternative livelihoods for farmers, sustained economic development, and governmental and security capacity building;

Whereas recognizing that long-term political stability requires sustained economic security, Afghanistan is striving to create an economic base to provide meaningful livelihoods for all of its people, and the United States has a cooperative interest in helping Afghanistan achieve this goal;

Whereas section 101(1) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7511(1)) declares that the “United States and the international community should support efforts that advance the development of democratic civil and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan.”;

Whereas on June 15, 2004, during President Karzai’s visit to the United States, President George W. Bush stated: “Afghanistan’s journey to democracy and peace deserves the support and respect of every nation. . . . The world and the United States stand with [the people of Afghanistan and the United States as partners in their quest for peace and prosperity and stability and democracy.”;

Whereas on June 15, 2004, in his address to a joint meeting of the Congress, President Karzai stated: “We must build a partnership that will consolidate our achievements and enhance stability, prosperity and democracy in Afghanistan and in the region. This requires sustaining and accelerating the reconstruction of Afghanistan, through long-term commitment. . . . We must enhance our strategic partnership. The security of our two nations are intertwined.”;

Whereas on April 13, 2005, while receiving the visiting United States Secretary of Defense, Donald Rumsfeld, President Karzai, in expressing the desire of the Afghan people for a long-term strategic partnership with the United States, stated: “They want this relationship to be a wholesome one, including a sustained economic relationship, a political relationship, and most important of all, a strategic security relationship that would enable Afghanistan to continue to prosper, to stop interferences, the possibility of interferences in Afghanistan.”;

Whereas the people of the United States, and their elected representatives, are honored to welcome President Karzai back to the United States in May 2005 on a visit that will further advance the close partnership between the United States and Afghanistan:

Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring). That—

(1) Congress welcomes the first democratically-elected President of Afghanistan, His Excellency Hamid Karzai, as an honored and valued friend upon his visit to the United States in May 2005; and

(2) it is the sense of Congress that—

(A) a democratic, stable, and prosperous Afghanistan is a vital security interest of the United States; and

(B) a strong and enduring strategic partnership between the United States and Afghanistan should continue to be a primary objective of both countries to advance a shared vision of peace, freedom, security, and sustainable economic development between the two countries and throughout the world.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from New York (Mr. ENGEL) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution under consideration.

General leave

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consider necessary.

It is a pleasure to welcome His Excellency Hamid Karzai, the President of Afghanistan, to the United States and
Mr. Speaker, Afghanistan has made real progress toward becoming a stable, peaceful, and democratic state. The Taliban has been forced from power. The presidential election last October was an unqualified success with a massive turnout and widespread support for the new government, despite the ongoing threat from Taliban insurgents. Progress has been made in restoring the basic human rights of Afghan women.

Before we even heard about the Taliban, Mr. Speaker, I was talking about them when they were in control when they were denying religious freedom to people and others and talking about some of their despicable acts which, fortunately, the world had then come to know.

But even today, Afghanistan is far from out of the woods. The Taliban and Al Qaeda remnants have used recent events to further their agenda of unbridled terrorism. It is crucial that President Karzai aims to bring to Afghanistan and its people. Progress in reconstruction and development, which is crucial to bringing economic opportunity and hope to millions, is painfully slow. The obstacle to democracy and development is the unprecedented scale of opium cultivation and narco-trafficking.

Mr. Speaker, in the face of these obstacles, President Karzai has remained steadfast and determined to bring democracy, prosperity, and security to the people of Afghanistan; and the United States must help President Karzai achieve this goal.

This resolution welcomes President Karzai upon his visit to the United States this week and recognizes that a democratic, stable, and prosperous Afghanistan is a vital national security interest of the United States. The resolution wishes the strong and enduring partnership between our two countries must remain a primary objective.

President Bush met today with President Karzai in the Oval Office. I am sure the President continued to offer the strong support of the American people to President Karzai. It is my hope that President Karzai offered his thoughts on how to bring sustainable peace and progress to Afghanistan.

Mr. Speaker, we cannot allow Afghanistan to lapse into chaos, war, and ruin once again. The United States must demonstrate its long-term commitment to a strong and enduring partnership with Afghanistan. President Karzai is Afghanistan's best chance at achieving peace, and we must do everything to help him realize this goal.

I had the pleasure of meeting President Karzai, which was last in town and met with members of the Committee on International Relations, and I must add on a personal note that a very good friend of mine is a first cousin of his, so he does have strong family ties to the United States as well.

Mr. Speaker, I urge my colleagues to support this resolution.

Ms. JACKSON-LEE of Texas, Mr. Speaker, I rise today as a proud cosponsor of H. Con. Res. 153, which welcomes His Excellency Hamid Karzai, the President of Afghanistan, on the occasion of his visit to the United States in May 2005 and expresses support for a strong and enduring strategic partnership between the United States and Afghanistan.

As the Co-Chair for the Congressional Afghan Caucus along with my colleague Chairman Neys, I am proud to welcome President Karzai back to the United States. I want to thank my colleague Ms. Ros-Lehtinen for introducing this resolution.

While there will be those who have the view that the war in Afghanistan is over and we should shift our view, the truth is that Afghanistan is as vital to our nation now as was shortly after September 11th. Operation Enduring Freedom was a success in removing the Taliban leadership and giving the Afghan people new hope, however our work is far from done. We must ensure that Afghanistan has a bright and productive future ahead of it, which peace and prosperity, will be possible. We can not make the mistake we made in Afghanistan after the conclusion of the Cold War. The brave Afghan warriors defeated the Red Army, stopping them for completing another brutal assault upon an innocent nation. However, we rewarded their bravery by ignoring Afghanistan and allowing it to be a place where extremists like the Taliban and Al Qaeda could take refuge and indeed have sanctuary to build upon. We can not allow ourselves to make that same mistake again, we must show the Afghan people that we stand with them even after our own short term interests have been served. Travelling to Afghanistan on a couple different occasions and I have been to the faces of the Afghan people and I know they are ready to embrace us, if only we can really support them for the long term.

I want to applaud President Karzai; he is a man of courage and vision. More than 10.5 million Afghan men and women voted in national presidential elections in October 2004, again giving credence to the fact that they have embraced democratic reform. The Afghan people have chosen President Karzai, formerly the interim President, for a five-year term as Afghanistan's first democratically-elected President. I congratulate President Karzai for this victory, his job has not been easy and surely there were few who would have been willing to assume the burden of leadership that he did. His goals and aspirations will be for the long term health and security of Afghanistan and to get to that point he needs and deserves the full support of our nation.

Again, let me welcome President Karzai back to the United States. I stand among many Members who admire his will and resolve on behalf of his people. His accomplishments despite all the obstacles are certainly praiseworthy and deserving of recognition from the United States Congress. Let us all hope that this pattern of progress and success continues for President Karzai and Afghanistan as we move forward.

Mr. ENGEL, Mr. Speaker, I have no further speakers, and I yield back the balance of my time.
The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentleman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution (H. Res. 243).

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Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 243) recognizing the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts to promote National Safe Boating Week.

Mr. Speaker, safe boating begins before you even step in a boat by planning your trip and being safety conscious. The most important thing a boater can do to save their life is to wear a life jacket. That sounds simple; but in 2003, 416 boaters were drowned while not wearing their life jackets. Today there are watercraft-approved life jackets that are inflatable so you can easily sail and still be safe.

Just as in driving a car, alcohol and boating do not mix. Do not drink and drive in a boat.

Today there are over 17 million boats in our Nation's waterways. It is getting crowded, so everybody should know and follow the nautical rules of the road. If you are in a small boat, do not stand up. You could flip your boat, sending you and your family into the water.

Mr. Speaker, these are simple, but they are a few of the basic tips that people should follow to have a safe and enjoyable time when they are boating.

The Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council have boating safety education programs to help everyone learn how to boat safely. I encourage everyone to take advantage of these courses. If you follow their simple guidelines, you can have a fun and relaxing time while being as safe as possible.

Mr. Speaker, I strongly urge my colleagues to join us in support of House Resolution 243.

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

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

Mr. Speaker, I want to thank the gentleman for sponsoring this piece of legislation as well. I would like to reiterate some of the comments that the gentleman made about boat safety, and that is when you get in a boat, it is like getting in a car. Do not drink and drive; do not drink and boat. Snap your safety belt in the car; put your life jacket on in the boat. Respect the people in your boat and respect other people in their boats; and respect the ecosystem that you are now treading on.

When you go out in a boat, enjoy yourself, enjoy the people that you are around, and enjoy the pristine nature of that particular environment. Boat Safety Week hopes to motivate people to understand the nature of their responsibility when they step in a boat, whether it is one with a big, powerful engine; whether it is a small motor boat; or I would recommend you try a kayak and canoe.

Of course, wear your life jacket regardless, respect yourself, respect your passengers, respect other boaters, and respect the pristine nature of the water.

Mr. BISHOP of New York. Mr. Speaker, I rise in strong support of H. Res. 243, a bill recognizing the Coast guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts to promote National Safe Boating Week.

In my district on Eastern Long Island, water safety is of paramount concern to residents, vacationers, and the tourism industry—one of the most important contributing elements of the local economy, which includes pleasure and commercial boating.

I commend the men and women of the Coast Guard, the Coast Guard Auxiliary and the National Safe Boating Council for their steadfast dedication to protecting boaters throughout the country. As we approach Memorial Day, kicking off the summer, we recognize National Safe Boating Week to encourage American boaters to be safe on the water and to promote the use of personal flotation devices (PFDs).

It is important to highlight the progress made to safeguard boating enthusiasts in recent years, particularly with more than 13 million watercraft registered in the U.S., a number that continues to grow with the ever-increasing number of people enjoying the water, there are fewer fatalities on the sea. This is in no small part due to the diligence of
hard-working groups like the National Safe Boating Council and the selfless, intrepid men and women of the Coast Guard.

As vacationers throughout the country head for the coasts, it is our responsibility to encourage care. I echo the National Safe Boating Council's important message urging all Americans to be safe on the water while they enjoy their family vacations this summer.

Mr. GILCHREST. Mr. Speaker, I have no further speakers, I yield back the balance of my time, and urge the adoption of this resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. GILCHREST) that the House suspend the rules and agree to the resolution. H. Res. 243.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 243.

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

There was no objection.

BUSINESS CHECKING FREEDOM ACT OF 2005

Mrs. KELLY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1224) to repeal the prohibition on the payment of interest on demand deposits and for other purposes, as amended.

The Clerk read as follows:

H.R. 1224

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 “Business Checking Freedom Act of 2005”.

SEC. 2. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED FOR ALL BUSINESSES.

(a) DAILY TRANSFERS ALLOWED INTO DEMAND DEPOSIT ACCOUNTS.—Section 2 of Public Law 93-100 (12 U.S.C. 1832) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(2) by inserting after subsection (a) the following:

“(b) TRANSFERS.—Notwithstanding any other provision of law, any depository institution, other than a nonqualified industrial loan company, may permit the owner of any deposit or account which is a deposit or account on which interest or dividends are paid and is not a deposit or account described in subsection (a)(2) to make up to 24 transfers per month (or such greater number as the Board of Governors of the Federal Reserve System may determine by rule or order), for any purpose, any other account of the owner in the same institution. An account offered pursuant to this subsection shall be considered a transaction account for purposes of section 19 of the Federal Reserve Act unless the Board of Governors of the Federal Reserve System determines otherwise.”; and

(3) by adding at the end of subsection (a) the following:

“(3) NONQUALIFIED INDUSTRIAL LOAN COMPANIES.—

“(A) DEFINITION.—For purposes of this section, the term ‘nonqualified industrial loan company’ means any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956 that is determined by a State bank supervisor (as defined in section 3 of the Federal Deposit Insurance Act) to be controlled, directly or indirectly, by a commercial firm.

“(B) COMMERCIAL FIRM.—For purposes of this paragraph, the term ‘commercial firm’ means any entity at least 15 percent of the annual gross revenues of which is derived from financial or incidental activities during at least 3 of the prior 4 calendar quarters.

“(C) GRANDFATHERED INSTITUTIONS.—The term ‘nonqualified industrial loan company’ does not include any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956—

“(i) which became an insured depository institution on or before January 1, 1993, or pursuant to an application for deposit insurance which was approved by the Federal Deposit Insurance Corporation before such date; and

“(ii) to which there is no change in control, directly or indirectly, of the company, bank, or institution after September 30, 2003, that requires an application under section 7(i) or 18(c) of the Federal Deposit Insurance Act, section 3 of the Bank Holding Company Act of 1956, or section 10 of the Home Owners’ Loan Act.”.

(b) INTEREST ON BUSINESS NOW ACCOUNTS.—

(1) IN GENERAL.—Section 2(a) of Public Law 93-100 (12 U.S.C. 1832(a)) is amended—

(A) by striking paragraph (2) and inserting the following new paragraph:

“(2) PAYMENT OF INTEREST ON CERTAIN NOW ACCOUNTS.—(A) Except as provided in this subsection, a nonqualified industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956—

“(i) which became an insured depository institution before October 1, 2003, or pursuant to an application for deposit insurance which was approved by the Federal Deposit Insurance Corporation before such date; and

“(ii) to which there is no change in control, directly or indirectly, of the company, bank, or institution after September 30, 2003, that requires an application under section 7(i) or 18(c) of the Federal Deposit Insurance Act, section 3 of the Bank Holding Company Act of 1956, or section 10 of the Home Owners’ Loan Act.”;

(B) by adding at the end of subsection (a) the following:

“(4) RULE OF CONSTRUCTION RELATING TO DEMAND DEPOSITS.—No provision of this section may be construed as conferring the authority to offer demand deposit accounts to any institution that is prohibited by law from offering such accounts.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 2(b) of Public Law 93-100 (12 U.S.C. 1832(b)) is amended by striking “and is not a deposit or account described in subsection (a)(2)”.

(3) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 3. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED.

(a) REPEAL OF PROHIBITION ON PAYMENT OF INTEREST ON DEMAND DEPOSITS.

(1) FEDERAL RESERVE ACT.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 371a) is amended to read as follows:

“(1) [Repealed].”

(2) HOME OWNERS’ LOAN ACT.—The first sentence of section 5(b)(1)(B) of the Home Owners’ Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by striking “savings association” and all that follows through “the term ‘permit’ or permit any” and inserting “savings association may not permit any”.

(3) NONQUALIFIED INDUSTRIAL LOAN ACT.—Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1832(g)) is amended to read as follows:

“(g) [Repealed].”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 4. PAYMENT OF INTEREST ON RESERVES AT FEDERAL RESERVE BANKS.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following new paragraph:

“(12) EARNINGS ON RESERVES.—

“(A) IN GENERAL.—Balances maintained at a Federal Reserve bank on behalf of a depository institution may receive earnings to be paid by the Federal Reserve bank at least once each calendar quarter at a rate or rates not to exceed the general level of short-term interest rates.

“(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTION.—The Board may prescribe regulations concerning—

“(i) the payment of earnings in accordance with this paragraph;

“(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

“(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributed to balances maintained at Federal Reserve banks and earnings credited to savings associations subject to Federal Reserve supervision under section (c)(1)(A), in a Federal Reserve bank by any such entity on behalf of depository institutions.

“(C) DEPOSITORY INSTITUTIONS DEFINED.—For purposes of this paragraph, the term ‘depository institution’, in addition to the institutions described in paragraph (1)(A), includes any trust company, organized under section 25A, or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978).”.

(b) AUTHORIZATION FOR PASS THROUGH RESERVES FOR MEMBERS BANKS.—Section 19(b)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking “which is not a member bank”.

(c) CONSUMER BANKING COSTS ASSESSMENT.

(1) IN GENERAL.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(A) by redesignating sections 30 and 31 as sections 31 and 32, respectively; and

(B) by inserting after section 29 the following new section:

“SEC. 30. SURVEY OF BANK FEES AND SERVICES.

(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System shall obtain annually a sample, which is representative by type and size of the banks in the collection (including small institutions) and geographic location, of the following retail banking services and products provided

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by insured depository institutions and insured credit unions (along with related fees and minimum balances):

- Checking and other transaction accounts
- Negotiable order of withdrawal and savings accounts
- Automated teller machine transactions
- Other electronic transactions

(b) MINIMUM SURVEY REQUIREMENTS—The annual survey described in subsection (a) shall meet the following minimum requirements:

- Checking and other transaction accounts shall include, at a minimum, the following:
  - Monthly and annual fees and minimum balances to avoid such fees.
  - Minimum opening balances.
  - Check processing fees.
  - Card fees.
  - Fees charged to customers for withdrawals, deposits, and balance inquiries through automated machines.
  - Fees charged to noncustomers for withdrawals, deposits, and balance inquiries through institution-owned machines.

- Point-of-sale transaction fees.

- Data on other electronic transactions shall include, at a minimum, the following:
  - Wire transfer fees.

- Fees related to payments made over the Internet or through other electronic means.

- OTHER FEES AND CHARGES.—Data on any other fees and charges that the Board of Governors of the Federal Reserve System determines to be important to meet the purposes of this section.

(b) ANNUAL REPORT TO CONGRESS REQUIRED.—

(1) Prepation.—The Board of Governors of the Federal Reserve System shall prepare, on the basis of the results of each survey conducted pursuant to subsections (a) and (b) of this section and section 136(b)(1) of the Consumer Credit Protection Act.

(2) Content.—In addition to the data required to be collected pursuant to subsections (a) and (b), each report prepared pursuant to paragraph (1) shall include a description of the discernable trends, in the Nation as a whole, in a representative sample of the 50 States (selected with due regard for regional differences), and in each consolidated metropolitan statistical area (as defined by the Director of the Office of Management and Budget), in the cost and availability of the retail banking services, including those described in subsections (a) and (b) (including related fees and minimum balances), that delineates differences between institutions on the basis of the type of institution in the institution, between large and small institutions of the same type, and any engagement of the institution in multistate activity.

(3) Submission to Congress.—The Board of Governors of the Federal Reserve System shall submit an annual report to the Congress not later than June 1, 2007, and not later than June 30, subsequent years.

(d) Definitions.—For purposes of this section, the term ‘‘insured depository institution’’ has the meaning given such term in section 3 of the Federal Deposit Insurance Act, and the term ‘‘insured credit union’’ has the meaning given such term in section 101 of the National Credit Union Act.

SEC. 5. INCREASED FEDERAL RESERVE BOARD FLEXIBILITY IN SETTING RESERVE REQUIREMENTS.


(1) in clause (i), by striking ‘‘the ratio of 3 per centum and inserting ‘‘a ratio not greater than 3 percent (and which may be zero);’’ and

(2) in clause (ii), by striking ‘‘and not less than 8 per centum.’’

SEC. 6. TRANSFER OF FEDERAL RESERVE SURPLUSES.

(a) IN GENERAL.—Section 7(b) of the Federal Reserve Act (12 U.S.C. 289(b)) is amended by adding at the end the following new paragraph:

(3) ADDITIONAL TRANSFERS TO COVER INTEREST PAYMENTS FOR FISCAL YEARS 2005 THROUGH 2009.—

(A) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to subsection (a)(3), the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, such sums as are necessary to equal the payment of section 19(b)(12) in each of the fiscal years 2005 through 2009.

(B) ALLOCATION BY FEDERAL RESERVE BOARD.—Of the total amount to be paid by the Federal reserve banks under subparagraph (A) for fiscal years 2005 through 2009, the Board of Governors of the Federal Reserve System shall determine the amount that each such bank shall pay in such fiscal year.

(C) REPLACEMENT OF SURPLUS FUND PROHIBITED.—During fiscal years 2005 through 2009, no Federal reserve bank may replenish such bank’s surplus fund by the amount of any transfer by such bank under subparagraph (A).

(D) TECHNICAL AND CONFORMING AMENDMENT.—

(1) Section 7(a) of the Federal Reserve Act (12 U.S.C. 289(a)) is amended by adding after the end the following new paragraph:

(3) PAYMENT TO Treaury.—During fiscal years 2005 through 2009, no Federal reserve bank may replenish such bank’s surplus fund by the amount of any transfer by such bank under subparagraph (A).

(2) RULES OF CONSTRUCTION.—In the case of an escrow account maintained at a depository institution for the purpose of completing the settlement of a real estate transaction:

(1) The absorption, by the depository institution, of expenses incidental to providing a normal banking service with respect to such escrow account;

(2) The forbearance, by the depository institution, from charging a fee for providing any such banking function; and

(3) any benefit which may accrue to the holder or the beneficiary of such escrow account as a result of an action of the depository institution, shall not be treated as the payment or receipt of interest for purposes of this Act and any provision of Public Law 93–341, the Housing and Urban Development Act of 1974, or the Federal Deposit Insurance Act relating to the payment of interest on accounts or deposits at depository institutions.

The purpose of this Act is to prevent the Federal reserve banks from replenishing their surplus funds to such amounts so as to require a depository institution that maintains an escrow account in connection with the settlement of real estate transactions to make a payment of interest as required by law.
with a real estate transaction to pay interest on such escrow account or to prohibit such institution from paying interest on such escrow account. No provision of this Act shall be construed as preempting the provisions of law of any State dealing with the payment of interest on escrow accounts maintained in connection with real estate transactions.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York (Mrs. KELLY) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. 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. 1224, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

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

Mr. Speaker, for the fifth time in three Congresses, we have to pass legislation to bring our banking system into the 21st century. Five times this House has passed this legislation to help our small businesses, only for it to fall in the other body. We come to the floor once again with a strong hope that the enactment of this bill will finally be enacted into law this Congress.

The Business Checking Freedom Act provides important benefits for our local small businesses and our financial system alike. First, it repeals an outdated law prohibiting banks from paying interest on business checking accounts. In our 21st century economy, no American should be losing the option of making money on their assets simply because they own a small business, yet our small business owners across the country are losing potential interest income on a daily basis until the Business Checking Freedom Act becomes law.

This legislation will allow banks to better meet the needs of their small business customers while providing a necessary phase-in period to protect existing business relationships from a sudden change, and it clarifies the treatment of escrow accounts maintained by banks in the settlement of real estate transactions, and that is not changed by this bill.

H.R. 1224 also gives the Federal Reserve the opportunity to pay interest on reserves that banks keep within the Federal Reserve system. Consumers and banks will be rewarded for saving and investment by this bill. The Federal Reserve strongly supports this change and a related change on reserve requirements to better enable banks to operate safely.

H.R. 1224 will once again ensure that banks can best meet the needs of their customers while increasing the safety and soundness of our financial system. I urge all Members to join with me in passing this important bipartisan legislation.

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

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur with the explanation given by the gentlewoman from New York, the major author of the bill. This House has previously passed the bill, and it did not emerge from the Senate. We hope that it does this year.

There were, if you go back 20 years or more, a number of restrictions on what various financial institutions can do. They have been outdated by technology, and passing this bill is one more step towards making sure that our financial institutions can in fact take full advantage of that.

There is one issue that is of some interest to many Members that I want to note. We have in some parts of the country institutions known as “industrial loan corporations” that have many of the functions of banks, but, unlike banks, these financial institutions have many of their assets in nonbanking activities. Hence the name “industrial loan corporation.”

They have become somewhat controversial. The industrial loan system is very much unhappy with them. There have been other concerns about other entities getting into the banking business when they are primarily not banks, but doing this in various ways.

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When the Congress passed the bill reorganizing the financial systems and removing a lot of the constraints on various financial institutions known as the Gramm-Leach-Bliley Act, it adopted a test that institutions had to be 85 percent financial in their total to get certain powers.

Working with the gentleman from Ohio (Mr. GILLMOR), I have put that formula into place, or the gentleman from Ohio (Mr. GILLMOR) and I together have, with the concurrence of most of the members of our committee, so that as we expand bank powers, whether it is for branching or, today, for interest on business checking or in other ways, we have maintained that principle that these new powers should only go to institutions that have an 85 percent financial entity.

This does not displace existing industrial loan corporations; indeed, it allows them to continue with whatever powers they get from the States where they are chartered, where they are State chartered, but it does say that as we expand bank powers, that expansion will be limited to institutions which would qualify under the 85-15 test.

That provision is in here, and with that provision and a couple of other minor changes, I think this is a piece of legislation that is very appropriate. I would note that a question was raised about one aspect of it by people interested in land title. My colleague, the gentleman from North Carolina (Mr. WATT) negotiated, I think, a very reasonable response to their question, and we now have a bill that I hope will pass overwhelmingly.

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

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

I simply want to say that this bill is a bill that will encourage savings. It will also encourage the banks to keep more reserves at the Federal Reserve, which is a good thing for bank stability. We have passed this bill, as I said before, five times in the Congress. It is very important, I believe, to the small businesses of this Nation that this bill be passed today and that it get passed appropriately in the Senate.

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

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

Mr. BOOZMAN. Mr. Speaker, I move to suspend the rules and pass the bill (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, and for other purposes, as amended.

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

SERVICEMEMBERS HEALTH INSURANCE PROTECTION ACT OF 2005

Mr. BOOZMAN. Mr. Speaker, I move to suspend the rules and pass the bill (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, and for other purposes, as amended.

The Clerk reads as follows:

H.R. 2046

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 “Servicemembers’ Health Insurance Protection Act of 2005.”

SEC. 2. LIMITATION ON PREMIUM INCREASES FOR REINSTATED HEALTH INSURANCE OF SERVICEMEMBERS RELEASED FROM ACTIVE MILITARY SERVICE.

(a) PREMIUM PROTECTION. —Section 704 of the Servicemembers Civil Relief Act (50 U.S.C. App. 597) is amended by adding at the end the following new subsection:

“(c) LIMITATION ON PREMIUM INCREASES. —

“(1) PREMIUM PROTECTION. —The amount of the premium for health insurance coverage that was terminated by a servicemember and required to be reinstated under subsection (a) may not be
increased, for the balance of the period for which coverage would have been continued had the coverage not been terminated, to an amount greater than the amount chargeable for such coverage for the period between the termination and the reinstatement.

(2) INCREASES OF GENERAL APPLICABILITY NOT INCLUDED.—Paragraph (1) does not prevent an increase in premium to the extent of any general increases chargeable for such coverage for persons similarly covered during the period between the termination and the reinstatement.

(b) TECHNICAL AMENDMENT.—Section (b)(3) of such section is amended by striking “if the” inserting “in a case in which the

SEC. 2. PRESERVATION OF EMPLOYER-SUPPORTED HEALTH PLAN COVERAGE FOR CERTAIN RESERVE-COMPONENT MEMBERS WHO ACQUIRE TRICARE ELIGIBILITY.

(a) CONTINUATION OF COVERAGE.—Subsection (a)(1) of section 4217 of title 38, United States Code, is amended by inserting after “by reason of service in the uniformed services,” the following: “or such person becomes eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title.”.

(b) REINSTATEMENT OF COVERAGE.—Subsection (b) of such section is amended—

(1) by inserting after “by reason of service in the uniformed services,” the following: “or by reason of the person having become eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title.”;

(2) by inserting “or eligibility” before the period at the end of the first sentence; and

(c) LIMITATION ON PREMIUM INCREASE.—Section 4217 of title 38, United States Code, is amended by inserting after “shall be applied as if those subsections had not been enacted.”

SEC. 3. PRESERVATION OF EMPLOYER-SPONSORED HEALTH PLAN COVERAGE FOR CERTAIN RESERVE-COMPONENT MEMBERS WHO ACQUIRE TRICARE ELIGIBILITY.

(a) CONTINUATION OF COVERAGE.—Subsection (a)(1) of section 4217 of title 38, United States Code, is amended by inserting after “by reason of service in the uniformed services,” the following: “or such person becomes eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title.”.

(b) REINSTATEMENT OF COVERAGE.—Subsection (b) of such section is amended—

(1) by inserting after “by reason of service in the uniformed services,” the following: “or by reason of the person having become eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title.”;

(2) by inserting “or eligibility” before the period at the end of the first sentence; and

(c) LIMITATION ON PREMIUM INCREASE.—Section 4217 of title 38, United States Code, is amended by inserting after “shall be applied as if those subsections had not been enacted.”

The Speaker pro tempore. Pursuant to the rule, the gentleman from Arkansas (Mr. BOOZMAN) and the gentle-
of cancellation of active duty orders and employees who served a period of active duty.

Section 4 of the bill would make a technical correction to the Public Law 108-414 regarding the VA’s adaptive housing program.

Finally, section 5 of the bill would make a correction to the servicemembers’ group life insurance provisions of H.R. 1268 regarding spousal notification for service elections of coverage and designation of beneficiaries.

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

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

Mr. Speaker, I rise today in strong support of H.R. 2046, as amended, the Servicemembers’ Health Insurance Protection Act of 2005. I would like to thank the gentleman from Indiana (Chairman BUYER) and the gentleman from Illinois (Ranking Member EVANS) for their leadership on the full committee and for their good work in shepherding this bill to the floor. I also like to personally thank the gentleman from Arkansas (Chairman BOOZMAN) of the Subcommittee on Economic Opportunity for his steady bipartisan leadership on the subcommittee.

Mr. Speaker, I support this legislation and am an original cosponsor of the bill. This legislation is aimed at improving the quality of life of our servicemembers, veterans, and military families. It is very important for the increasingly activated National Guard and Reserve components, our citizen-soldiers who leave behind their families, employment, and comforts of home to defend this Nation.

The State of South Dakota has had and continues to have National Guard units activated and serving in the Middle East. This legislation will protect them and their families as they return home. This legislation will also allow for them to restate their private or employer-sponsored health insurance coverage.

Mr. Speaker, this legislation also includes two corrective provisions, as the gentleman from Arkansas (Chairman BOOZMAN) described, which amend and improve the administration of the disabled veteran adaptive housing grant program and the servicemembers’ group life insurance program, respectively. I am pleased we were able to include these important corrective measures.

Mr. Speaker, the servicemembers, military families and veterans of this Nation have earned and deserve our best efforts here in Congress. Indeed, they deserve so much more. I am proud to support this legislation, and I am confident it will benefit the veterans of my home State of South Dakota, as well as the other veterans across the country.

I fully support H.R. 2046, as amended, and urge my colleagues to do the same.

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

Mr. BOOZMAN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to thank our Committee on Veterans’ Affairs Chairman, the gentleman from Indiana (Chairman BUYER), as well as the gentleman from California (Mr. FILNER), the ranking member from Illinois (Mr. EVANS), and the subcommittee chairman, the gentleman from Arkansas (Mr. BOOZMAN) for giving Congress the opportunity to vote on the Servicemembers’ Health Insurance Protection Act.

Today, as a man or a woman makes a decision to serve their country through the Armed Forces, most have to give up their employer-sponsored health care. Although TRICARE insures these enlists, in the eyes of their health care providers, they are technically without coverage until they return, and then they are subject to unfair premium increases as a “new employee.” America asks these young men and women to fight for our country, how can we allow their insurance costs to increase when they return. How, many would ask, is this all fair?

The bill that we have before us, H.R. 2046, specifies that when a person enters the military they will pay the same low-cost, employer-sponsored health insurance that they had before their absence. This commonsense legislation enjoyed unanimous support from Committee on Veterans’ Affairs members. It is supported by the Department of Defense, Department of Labor, and veterans’ groups around the country.

I look forward to voting in favor of H.R. 2046 and I encourage my colleagues to do the same. Certainly those members of the military, whether it is active or the Reserve, when we have so many people serving today in the war on terrorism, they deserve to have this kind of legislation passed so that they can come home and again provide the kind of health care insurance that their family needs.

Ms. HERSETH. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS), the ranking member of the Committee on Veterans’ Affairs.

Mr. EVANS. Mr. Speaker, I rise in strong support of H.R. 2046, as amended. I would like to thank the gentleman from Indiana (Chairman BUYER) and the chairman and ranking member of our Committee on Economic Opportunities, the gentleman from Arkansas (Mr. BOOZMAN) and the gentlewoman from South Dakota (Ms. HERSETH) for their hard work in bringing this legislation to the floor today.

Mr. Speaker, this has been a bipartisan effort. Let us keep it that way and get the job done for the veterans who deserve our help through the difficult times that they are facing. They face danger every day, and I am proud to represent them here in the United States. We are heartened by the strong support from Committee on Economic Opportunities, the gentleman from Arkansas (Chairman BOOZMAN) and his leadership on the subcommittee, of course the efforts of committee staff and all of their hard work in advancing this important legislation. I look forward to working with the leadership of the full committee, the gentleman from Arkansas (Chairman BOOZMAN), and his leadership on the subcommittee, of course the efforts of committee staff and all of their hard work in advancing this important legislation, as well as those who were in hearings with the chairman and me and other members of the subcommittee, those from the Department.
The Servicemembers’ Civil Relief Act was passed, in part, to guarantee reinstatement of employer-provided health care following separation from active duty. However, an unintended consequence of that law allowed insurance companies to unfairly single out reservists by inflating their premiums once they returned to civilian life.

Mr. Speaker, I am pleased that we are working to correct this problem by offering this bill as a remedy by protecting our brave reservists from inflated insurance premiums and giving them a helping hand as they return to civilian life.

Mr. REYES. Mr. Speaker, I rise today in support of H.R. 2046, the Servicemembers Health Insurance Protection (SHIP) Act of 2005, and to voice my strong commitment and appreciation to our nation’s servicemen and veterans as we head into the Memorial Day weekend.

On May 11, 2005, my colleagues and I on the House Veterans Affairs Committee considered H.R. 2046. This important legislation would assist in providing a seamless transition for our reservists and guardsmen by curtailing health insurance premium increases and preserving employer-sponsored health care coverage. I voted for this legislation because our servicemen deserve better protections and improved quality of life.

I would like to take this time to thank our past and current members of the U.S. Armed Forces for their selfless service to our country. We owe each of them a great deal of respect and appreciation, especially those who have made the ultimate sacrifice for our nation.

Today soldiers, the majority of us will be fortunate enough to be surrounded by loved ones this Memorial Day weekend, I encourage all Americans to take this special time to reflect on the sacrifice of those who died while serving their country and to pray for our troops currently in harm’s way.

Mr. Speaker, I urge my colleagues in Congress to continue caring for our servicemembers by ensuring passage of H.R. 2046.

Mr. CARDIN. Mr. Speaker, as our soldiers face a time of war and strife across the globe, we must be mindful not only of the risks that they face in combat, but also the barriers that they face to planning a secure future here at home after the battle is done.

There are currently about 180,000 Americans serving in Iraq, and another 18,000 in and around Afghanistan. It is estimated that there are 1,652 Maryland national guard and reserves serving in combat today.

This bill is important, because it shows our commitment to the future of our troops, to the future of their families. Today soldiers do not pay taxes on their combat pay, as our way of saying that they are paying more than their fair share in the gift of service they bestow on their country. This is only right, and we owe our soldiers our gratitude. But we also owe them the gift of a future, and this bill allows soldiers and reservists to plan for that future even as they are protecting ours.

This bill gives soldiers the opportunity to save for their retirement by including combat zone pay as earned income in calculating the tax deduction for contributions to retirement savings plans.

I think we should go further. In my bill, the Pension Preservation and Savings Expansion Act, I included a provision that allows National Guard members and military reservists called up on active duty to continue contributing to their workplace retirement plans where their employers pay them their salary differential during their active duty service. This important provision should also be brought to the floor for a vote.

We have an obligation to ensure that our soldiers have a secure present and a secure future, and this bill takes one important step in that direction. I urge a “yes” vote on the Heroes Earned Retirement Opportunities Act.

We have an obligation to ensure that our soldiers have a secure present and a secure future, and this bill takes one important step in that direction. I urge a “yes” vote on the Heroes Earned Retirement Opportunities Act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. BOOZMAN) that the House suspend the rules and pass the bill, H.R. 2046, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOOZMAN. 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. 2046, as amended.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). Is there objection to the request of the gentleman from Arkansas?

There was no objection.
The Speaker pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 29, as amended.

The Clerk read the title of the bill.

The Speaker pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENDENBERGER) that the House suspend the rules and pass the bill, H.R. 29, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 393, nays 1, not voting 37, as follows:

(Hop No. 209)

Abercrombie, G. Brown, G. Waite, D. DeFazio, H.
Ackerman, E. Burgess, B. DeLauro, L.
Aderholt, T. Butterfield, D. Delay, E.
Alexander, J. Calvert, D. Dent, R.
Allen, G. Cannon, J. Diaz-Balart, L.
Andrews, A. Cass, D. Doggett, D.
Baca, J. Capito, R. Dooley, W.
Bailey, B. Cardozza, C. Driskill, J.
Baldwin, G. Carter, R. Edwards, E.
Barrow, R. Case, S. Ehlers, E.
Bartlett (MD), G. Castle, J. Emanuele, C.
Barton (TX), C. Castle, J. Emanuele, C.
Bean, S. Chavez, R. Engel, G.
Beaurepaire, S. Chabot, E. Eshoo, B.
Berkley, G. Chocola, J. Etheridge, B.
Berman, M. Capps, G. Evans, R.
Berry, D. Cardozza, C. Evans, R.
Biggert, D. Carney, J. Evans, D.
Bilirakis, G. Cass, D. Fortuno, D.
 Bishop (GA), G. Conaway, J. Franks (FL), J.
Bishop (NY), C. Cornyn, J. Freshour, G.
Bishop (UT), G. Costello, G. Frelinghuysen, F.
Blackburn, M. Costello, G. Frelinghuysen, F.
Blumenauer, G. Costa, J. Freshour, G.
Blunt, B. Crowley, M. Fossella, S.
Boehlert, J. Cromer, R. Ford, J.
Boehner, J. Crowther, E. Forster, C.
Bonilla, R. Cummings, F. Fossella, S.
Boner, R. Cummings, F. Fossella, S.
Bono, R. Cushing, J. Frank (MA), J.
Bosco, S. Cummings, F. Frelinghuysen, F.
Bowser, J. Cunningham, F. Freshling, H.
Boucher, J. Davis (GA), K. Garrett (NJ), N.
Boustany, D. Davis (FL), L. Gerlach, J.
Boyd, R. Davis (IL), A. Gilchrest, D.
Bradley (NH), D. Davis (NY), A. Gillmor, C.
Bradley (PA), S. Davis (TN), G. Gingrich, R.
Brady (TX), S. Davis (VA), A. Gonzalez, L.
Brown (SC), S. Davis, J. Goodlatte, R.
Brown, Corrine, D. Deal (GA), G. Goodlatte, R.
Bush, G. Granger, D. Gordon, G.
Burke, D. Gravely, S. Green, A.
Burke, S. Gravel, J. Green, G.
Burke (NY), D. Green, G. Gravel, J.
Burke, T. Grothman, J. Green, R.
Burton (IN), D. Grijalva, H. Grisham, D.
Bush, G. Grijalva, H. Grisham, D.
Byrnes, D. Grijalva, H. Grisham, D.
Cabrera, D. Grijalva, H. Grisham, D.
Cain, R. Grolleau, G. Grisham, D.
Cabin, D. Gramm, W. Grisham, D.
Cahill, K. Grau, M. Grisham, D.
Caldwell, S. Grant, R. Griffiths, G.
Caldwell, R. Grant, R. Griffiths, G.
Cantor, E. Granholm, A. Griffiths, G.
Carr, D. Green, A. Griffiths, G.
Carter, R. Green, G. Griffiths, G.
Casarez, J. Green, G. Griffiths, G.
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ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DUNCAN) (during the vote). Members are advised there are 2 minutes remaining in this vote.

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

The Yeas were: 397, the Nays were: 0, on the question of the motion offered by the lady from Florida (Ms. ROS-LIETHEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 149, as amended.

The vote was taken by electronic device, and there were—yeas 397, nays 0, not voting 36, as follows:

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NOT VOTING—36

Barrett (SC)
Beccora
Brown (OH)
Burton (IN)
Buyer
Clay
Cubin
Davis (AL)
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NOT VOTING—36

Barrett (SC)
Beccora
Brown (OH)
Burton (IN)
Buyer
Clay
Cubin
Davis (AL)
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So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GIBBONS. Mr. Speaker, I rise today to explain how I would have voted on May 23, 2005 during rollcall vote No. 200, No. 201, and No. 202 during the first session of the 109th Congress. The first vote was on H.R. 744—the Internet Spyware (I–SPY) Prevention Act of 2005, the second vote was on H.R. 29—Securely Protect Yourself Against Cyber Trespass Act, and the last vote was on H. Con. Res. 149—Recognizing the 57th Anniversary of the independence of the State of Israel.

I respectfully request that it be entered into the CONGRESSIONAL RECORD that if present, I would have voted “yes” on the rollcall votes.

REPORT ON H.R. 2528, MILITARY QUALITY OF LIFE AND VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATION ACT, 2006

Mr. WALSH, from the Committee on Appropriations, submitted a privileged report (Rept. No. 109-95) on the bill (H.R. 2528) making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. WESTMORELAND). Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

DEFENSE AUTHORIZATION AMENDMENTS TO STRENGTHEN CLEAN-UP OF BRAC SITES

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

Mr. BLUMENAUER. Mr. Speaker, one reason there is so much opposition to the BRAC base closing process is that people do not know what they are going to get stuck with when their base closes. Seventeen bases from the 1988 round are still contaminated and have not been transferred back to the benefit of local communities. Over 140,000 acres of closed or realigned bases have not been cleaned up.

I am offering an amendment to the defense authorization legislation tomorrow that would delay the implementation of the 2005 Base Realignment and Closure round until the Secretary of Defense submits a strategy including an estimate of the amount of funds necessary to complete unexplored ordinance clean up and environmental remediating of this work accomplished in the 1988 round. Not trying to stop the BRAC, just getting plans in place that are 17 years overdue.

At a time when we are asking communities to bear the trauma of the BRAC process it is unacceptable that we have not finished cleaning up the first round.

TRIBUTE TO DR. LUIS GLASER

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

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to pay special tribute to an outstanding citizen from my south Florida community, Dr. Luis Glaser. For the past 19 years, Dr. Glaser has served as provost for the University of Miami. He has been one of the university’s most dynamic and energetic leaders.

As a recent graduate of the University of Miami, I am proud to have experienced firsthand his exceptional leadership.

As a Jewish refugee who fled his native Austria at the dawn of the Holocaust, Dr. Glaser understands the experience of refugees of so many countries who have made the University of Miami the international academic center that it is.

His sensitivity and his insight have allowed him to fully engage in the academic life of the university and to maintain direct personal contact with its students.

I ask my colleagues to join me in thanking Dr. Luis Glaser for his wonderful service, as well as to his great wife, Ruth, for their unparalleled commitment to our south Florida community and to the University of Miami community. Go Canes. Thank you, Louie.

ALLOW STEM CELL RESEARCH

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

Mr. INSLEE. Mr. Speaker, yesterday I met with a group of folks who are urging the House to allow common-sense, reasonable stem cell, embryonic stem cell research to continue. I talked to Dr. Charles Murray of the University of Washington Cardiovascular Regenerative Biology Center, who told us that this research some day could repair damaged hearts.

I talked to Dr. Tony Blau, a hematologist at the University of Washington, who said that they had to put some research on the shelf because of these restrictive rules that President
Bush’s administration has placed on this research.

I talked to Dr. Connie Davis, who works with kidney and liver transplantees, who told us about the potential that this research could bring for the health of citizens, who said, why can people not make their own decisions? When you donate a kidney or you donate embryonic cells, she said, it should be the same thing.

We should pass, tomorrow, a commonsense measure that removes these restrictions that put handcuffs on our researchers right now where we are falling behind the rest of the country. Folks who have diabetes and Parkinson’s know what is at stake tomorrow. Let us pass the bill.

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SPECIAL ORDERS

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

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

There is no objection. (Mr. GUTKNECHT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. JONES of North Carolina. 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 North Carolina? There was no objection.

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OPPOSITION TO CAFTA

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

Mr. JONES of North Carolina. Mr. Speaker, I rise tonight, joining with many of my friends on the Democratic side, because I am opposed to CAFTA; and I would like to take just a few minutes to explain why I am opposed to CAFTA, the Central American Free Trade Agreement; and I like to quote CAFTA, the Central American Free Trade Agreement; and I like to quote Pat Buchanan.

Let me go read a little bit more from his article. “Between 1993 and 2004, the United States trade deficit with Beijing, China, grew 700 percent to $162 billion. Since NAFTA which passed a few years ago, the U.S. trade surplus with Mexico has vanished and the annual deficit is now above $50 billion that we owe Mexico. One-and-a-half million illegal aliens are caught each year crossing our borders and 500,000 make it in to take up residence and enjoy all the social programs generous but over-taxed Americans cannot afford to pay.”

“The highest per capita income in Central America is $9,000 a year in Costa Rica, which is less than the U.S. minimum wage, but CAFTA will enable agribusiness and transnational companies to set up shop in Central America to dump into the United States and drive our last family farmers out of business and kill our last manufacturing jobs in textiles and apparel.” Mr. Speaker, to read just a paragraph from a letter I received recently that was not signed. It is a full page and a half. I will read one paragraph. I intend to come to the floor day after day after day to talk about this issue.

He says, “Dear Congressman JONES: It is my understanding that you share my deep concern that our country is losing its industrial base. We are losing the vital jobs that are so important to support our economy and ultimately preserve the excellent standard of living that prior generations passed on to us. My view is that leaders in government and business are doing an inadequate job of protecting America’s industrial base.”

There is no question about that. Mr. Speaker. The gentleman that wrote this letter knows because he is a subcontractor.

Mr. Speaker. I want to show in my great State of North Carolina, which I am very proud to be one of 13 representatives, that since NAFTA we have lost over 200,000 manufacturing jobs. The United States itself, since NAFTA, has lost 2.5 million manufacturing jobs.

Mr. Speaker, this first chart shows you Pillowtex, which happens to be in my district. I am opposed to CAFTA; and I would like to take just a few minutes to explain why I am opposed to CAFTA, the Central American Free Trade Agreement; and I like to quote from a gentleman I have great respect for, particularly when it comes to protecting American jobs, Pat Buchanan.

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The title of his article is called “CAFTA: Last Nail In The Coffin.” And I will read a few paragraphs from the article. He says, “As I write, the Department of Commerce has just released trade deficit numbers for February of 2005. Again, the monthly trade deficit set a record of $61 billion. In January-February 2005, the annual U.S. trade deficit was running $100 billion above the all-time record of $617 billion in 2004.”

Mr. Speaker, I hope that we in a bipartisan way can defeat CAFTA, and I will do everything I can to help my friends, Republican and Democrat, to defeat CAFTA in the same time that we care about the American workers.

Mr. Speaker, I ask God to please bless our men and women in uniform and their families.

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CHEMICAL SECURITY

The SPEAKER pro tempore (Mr. Price of Georgia). Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, in 2003 the U.S. General Accounting Office released a report that was done at the request of myself and the gentleman from Michigan (Mr. DINGELL) and, I believe, other Members of Congress that found with regard to terrorist threats that no Federal agency has assessed the extent of security preparedness at chemical plants and that no Federal requirements are in place to require chemical plants to assess their vulnerabilities and take steps to reduce them.

I wanted to talk briefly tonight about this issue of the need for security at chemical plants. I was very pleased to note yesterday in the New York Times the lead editorial addressed this issue. I wanted to read from some sections of that editorial and comment on it.

In one part of the New York Times editorial yesterday it says, “There is no way to guarantee that terrorists will not successfully attack a chemical facility, but it would be grossly negligent not to take defensive measures. The question Americans should be asking themselves, says Rick Hind, Legislative Director of the Greenpeace Toxics Campaign, is, ‘If you fast-forward to a disaster, what would you want to have done?’

And this is what the New York Times and what Greenpeace say should be some of the priorities: ‘First, tighter plant security. There should be tough Federal standards for perimeter fencing. Concrete blockades, armed guards and other forms of security at all of the 15,000 facilities that use deadly chemicals.’

‘Second, use of safer chemicals. Refineries, when practical, should adopt processes that do not use hydrofluoric acid, the chemical that is now putting New Orleans at risk. Some plants that once used chlorine, such as the Blue Plains wastewater treatment plant in Washington, D.C., have switched to safer alternatives.’

‘Third, reduce quantities of dangerous chemicals. An important reason that chemical facilities make such tempting targets for terrorists is the enormous quantity of chemicals they

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have on hand. The industry should be encouraged and in some cases required to store and transport dangerous chemicals in smaller quantities.

"Fourth, limiting chemical facilities in highly populated areas. Many chemical facilities were built long before terrorism was a concern and when fewer people lived in their surrounding areas. There should be a national initiative to move dangerous chemical facilities, where practical, to lower population areas.

"Finally, government oversight of chemical safety. The chemical industry wants to police itself through voluntary programs, but the risks are too great to leave chemical security in private hands. Facilities that use dangerous chemicals should be required to identify their vulnerabilities to the Environmental Protection Agency and the Department of Homeland Security and to meet Federal safety standards."

Now, those are the five points that were expressed by the New York Times yesterday in their editorial, and also by Greenpeace. But I wanted to say, Mr. Speaker, that more than 3 years have passed since 9/11 and Congress has yet to seriously address the need for our Nation's chemical plants. We are finally seeing some movement in the Senate, but not yet in the House. And it is time to take serious action to reduce the threat of an attack on a chemical facility which would endanger millions of lives.

Last month I reintroduced the Chemical Security Act, H.R. 2237, which requires the EPA and the Department of Homeland Security to work together to identify high-priority chemical facilities. Once identified, these facilities would be required to assess vulnerabilities and hazards and then develop and implement a plan to improve security and use safer technologies within 18 months. Senator Corzine has introduced this bill in the Senate.

Now, since the legislation was first introduced in the House in 2002, I have tried to get the Republican leadership to conduct a congressional hearing on chemical security. And I welcomed the announcement last week on the House floor during the discussion or debate on the Homeland Security bill, there was an announcement that the House Select Committee on Homeland Security chair, the gentleman from California, said his committee would hold a hearing or start a series of hearings on chemical security beginning June 14.

I would also like to see my own committee, the House Committee on Energy and Commerce, which has jurisdiction over chemical facilities, to follow the gentleman from California's (Mr. Cox) lead and schedule hearings or begin to have hearings this summer.

Hopefully, we will see some positive signs of movement in the House, at least to have hearings on the issue, but it really is a very important issue, not only for New Jersey, my home State, but throughout the country. I am also pleased that the New York Times has pointed this out.

Greenpeace, of course, has talked about a number of initiatives even beyond the ones that were mentioned in the Chemical Security Act plan to spend some time over the next few weeks talking to Greenpeace about whether additional legislation is necessary to address some of their concerns.

HOLEs in NATIONAL Guard BENEFITS

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, last weekend I traveled back to Oregon, as I frequently do, and participated in an Armed Forces Day parade in Cottage Grove, Oregon. The particular focus this year was the return from Iraq of the 2162nd, a National Guard unit which is based in Cottage Grove, in the last 60 days. There was a good turnout among members of the community.

Of course, we are looking forward next week to Memorial Day, which will be a sober event, as we will honor some of those who have recently lost their lives in service to our Nation.

But one thing stands out in both of these celebrations and that is that there is tremendous support for our troops in uniform, but that support somehow is not getting translated in many ways here in Washington, D.C., in the budgets proposed by the President that relate to offset of benefits for disabled veterans, a disabled veterans tax, that relate to other services for veterans or equity in benefits for the National Guard.

Today, as I got to the plane, I saw an article "Dental Problems Stymie Guard Call-ups." This particular article was about the National Guard in Washington state where 30 percent of the 4,500 called up were ineligible for active duty because of dental problems, 20 percent nationally. I do not know the percentage for Oregon; I have not seen it. But when I was meeting with members of the 2162nd, when they were down in Fort Hood prior to their deployment to Iraq, and the gentlewoman from Oregon (Ms. Hooley) and I were meeting with them, this one fellow in the front says, I have a problem, Congressman; I would like you to try and help me out here.

He opens up his mouth really wide and he is missing a couple of front teeth. I said, What is going on there? He said, I have two bad teeth. I want to get the New York Times, and I plan to spend some time over the next few weeks talking to Greenpeace about whether additional legislation is necessary to address some of their concerns.

We need equity in benefits and better benefits for our Guard members. We are treating the National Guard indistinguishable from active duty forces, yet they still often suffer in terms of equipment and they definitely suffer in terms of equity of benefits, health coverage for our Guard members before they are activated. All Guard members should receive health benefits during their service in the Guard. That means they will be ready to defend the country at the drop of a hat. They are ready to deploy. But it also is a good way to induce and recognize the service of these people in our National Guard.

This morning when I got to the plane there was another Guard member there from Kingsley Air Force Base who does military police work, on his way to a National Guard drill. And we had a little chat and we were talking about the proposed base closure in Portland. Then he said, When are we going to get recognition on our retirement benefits. The fact that Guard members have a service instead of a set number of years of service, they are discriminated against.

Education benefits, they are discriminated against. Active duty military soldiers serve in Iraq, come back, leave the military, can get education benefits. National Guard soldiers serve in Iraq, come back having finished their contract in their term, want to get education benefits. No. They have to sign up for another term in the Guard.

But the active duty soldier did nothing to earn those benefits.

We need equity in education benefits. We need better health care benefits. We need better pension benefits. We have to start treating our National Guard members like the essential component they are of the Nation's national defense today.

They are not an afterthought. They are the front line as much as the active duty military. And there can be no more fitting recognition by this House of Representatives coming up to Memorial Day, in the wake of Armed Forces Day, than to deliver on those changes in benefits and those improvements for our Guard soldiers and to expand these benefits for all of our Nation's veterans so that Lincoln's words do not become a hollow promise.

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We will take care of our veterans. We can afford it in the greatest Nation on earth, and we should make good those promises before Memorial Day.

The SPEAKER pro tempore (Mr. Price of Georgia). Under a previous order of the House, the gentleman from Florida (Mr. WELDON) is recognized for 5 minutes.
Mr. WELDON of Florida addressed the House. His remarks will appear hereafter in the Extensions of Remarks.

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

Mrs. McCARTHY. Mr. Speaker, earlier this month the U.S. Supreme Court ruled the law preventing convicted felons from purchasing guns does not apply to individuals convicted of felonies in foreign countries.

In the case of Small v. United States, the ruling stated the law needs to explicitly state that foreign felons are also prohibited from buying firearms. This ruling has opened the doors for dangerous criminals to purchase guns in this country with no questions asked. But the loophole can easily be fixed.

That is why I have introduced H.R. 1931, the Foreign Felons Gun Prohibition Act. My legislation will ensure our gun laws take crimes committed in other countries into consideration before allowing a firearm purchase to go forward.

We cannot allow convicted drug dealers, murderers, rapists and even terrorists to purchase guns just because their crimes were committed in another country.

Mr. Speaker, a convicted drug dealer from south America can purchase all of the guns and ammunition that he wants and can buy in this country legally. This loophole puts the lives of our police officers, ATF officers and innocent bystanders in danger. And as demonstrated in the recent GAO report, it is already too easy for individuals with terrorist ties to buy guns in this country. This loophole will allow someone actually convicted of assisting terrorists overseas to purchase weapons like an AK-47 or a 50 caliber sniper weapon that can shoot down a plane.

I completely understand some felony convictions handed down by foreign courts have legitimacy questions. Convictions can be trumped up for political reasons by corrupt regimes. And nations involved in civil wars or other political disputes may have more than one illegitimate court administering justice. This legislation takes that into consideration.

My bill allows individuals to challenge the legitimacy of foreign felony convictions in our courts. If the foreign felony is found to be out of bounds legally, the individual would be allowed to purchase a gun.

This would do nothing to take away the right of someone to be able to own a gun. I want this bill to ensure that anyone charged with an illegitimate or a politically motivated foreign felony is not discriminated against. This may be inconvenient for some, but we must make sure that gun sales are limited to law-abiding citizens.

Mr. Speaker, we are at war. We cannot allow our enemies in the war on terror to arm themselves within our borders just because of a loophole. This is a homeland security problem with a common-sense solution.

Congress must work to close all of the loopholes in our pre-9/11 gun laws. It is too easy for person with ties to terrorism and criminal organizations to access guns in this Nation. Passing H.R. 1931 will help us win the war on terror and keep our streets safe from gangs and criminal.

We should be working together to make this country as safe as possible, certainly for our police officers, our ATF agents and the innocent bystanders. We can do this, but we must learn to work together. We must change the rhetoric of the gun issue. We are working for gun safety, not taking away the right of someone to own a gun.

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, Walker, and the Extensions of Remarks.

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

Ms. DEGETTE. Mr. Speaker, the American people deserve nothing less.

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

Mr. SNYDER. Mr. Speaker, Walker, and the Extensions of Remarks.

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

Mr. INSLEE. Mr. Speaker, Walker, and the Extensions of Remarks.

SUPPORT EMBRYONIC STEM CELL RESEARCH
The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. RAMSTAD) is recognized for 5 minutes.

Mr. RAMSTAD. Mr. Speaker, Walker, and the Extensions of Remarks.

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

Mr. CLEAVER. Mr. Speaker, Walker, and the Extensions of Remarks.

STEM CELL
The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes as the designee of the majority leader.
Mr. BARTLETT of Maryland. Mr. Speaker, we have just heard an impassioned plea to proceed with embryonic stem cell research. Tomorrow we are going to vote on a bill that would expedite embryonic stem cell research. I have the latest issue of Time magazine. It just arrived in our office, May 23, and the lead article in it says “Why Bush’s Ban Could Be Reversed.” It is talking about stem cell research.

In view of the interest all across America and in view of the fact that tomorrow we are going to be voting on a bill, I thought it might be well this evening to spend a few minutes putting this debate in context.

What are stem cells? This is a new term to many Americans. Our first chart is a depiction of the development of early embryos and then all of the tissues in the body which develop from this embryo.

The ultimate stem cell here is the zygote itself. The zygote is produced by the union of the sperm from the father and the egg from the mother. A stem cell is a cell which has the capability of differentiating into a number of other cells. Of course, that is the hope of embryonic stem cell research, that we might induce a cell to develop into a tissue, an organ or cells which will be useful in treating diseases.

This is a very abbreviated depiction of the early development of the embryo because it skips the morula stage, and we will have to talk in a few moments because that is the stage where most of the attention is focused now.

This goes from the zygote through the morula and finally, to the blastula and then to the gastrula. Here we see in the gastrula the development of what we call the germ layers. I guess you would say that a cell from each of these three germ layers, a cell from the endoderm, a cell from the mesoderm or a cell from the ectoderm, are all stem cells because they are destined to become a lot of different tissues and organs in the body.

From the ectoderm develops our nervous system and the skin. From the mesoderm develops most of the mass of the body, all of the bones and all of the muscles, the heart, the red blood cells and so forth. And then the endoderm, although widely dispersed in the body represents less mass in the body because it is the lining of the lung and the digestive tract. My chart shows the germ layers in the male and the egg in the female.

Now there are cells in all of these that one could say were stem cells. Tissue, and blood is a tissue, the tissue which has the most obvious stem cell that student was taught least 50 years ago when I first was studying these things, is the stem cell in the bone marrow from which a number of different blood cells develop.

When you are working with adult stem cells, you want something other than the organs from which this cell could differentiate, then you need to de-differentiate the cell. In other words, you need to convince the cell that it is not exactly what it is as a result of the development process, that it returns to its original undifferentiated, or relatively undifferentiated state, and then it can make other tissues.

The embryonic stem cell philosophically certainly holds the most promise because they are cells from which all of the tissues and organs of the body develop. There is the rationale then that these embryonic stem cells hold the promise of producing anything and everything that might be needed for fighting diseases.

There is enormous theoretical potential from working with stem cells. They are useful in treating diseases that result from tissue or organ deficiencies. We need to differentiate these diseases that result from the action of pathogens. There is a very large list of diseases that theoretically might be treated by stem cell application. Diabetes is one of those. It, by the way, represents the largest cost of all the diseases in this country.

This is probably the one that in my experience is the most heart wrenching because I have seen these little children come to my office. Many times during the day and frequently at night they have to prick their finger, their hand, their ear lobe, something in their body to get a drop, and now we have new instruments that require a pretty small drop of blood, and then this new almost miracle instrumentation analyzes that blood to see what the glucose content is so that they know how to set that pump. Many of them have embedded in their side a little hockey puck size pump that pumps insulin.

This of all the diseases, Mr. Speaker, is the one that perhaps most obviously might be treated through stem cell research. Giving insulin to a diabetic does not cure the disease. It simply delays the inevitable. The person whether they are young or old will go on to have circulatory problems. They may lose their eyesight. Circulation in their legs may be so bad that their toes become gangrenous and have to be removed. When you see these little children come through your office suffering with this disease, your heart really goes out to them and you want to do everything possible can to make sure that they have every potential for a healthy life. And they will not live so long, they will not live so well as the average person in spite of all the miracles of medicine today because insulin does not cure diabetes.

But if through embryonic or adult, for that matter, if you could do it, stem cell research, if you could develop islet of Langerhan cells, you could then put them anywhere in the body. In our bodies, they reside in the pancreas. I am not sure why they do what they do and what the pancreas does are two very different things. The pancreas secretes a large number of enzymes for digestion in the small intestine and the islet of Langerhan cells just happen to be resident there. They could be anywhere. They could be in your tongue, they could be in your ear, they could be in your ear lobe. They could be anywhere as long as there is a blood supply there to pick up the insulin that is made by these islet cells.

There is a long list of diseases: multiple sclerosis, lateral sclerosis, Lou Gehrig’s disease. I have a personal familiarity with this because my grandmother died of this a number of years ago, and I remember as a little boy standing by her bedside as she deteriorated and finally the only way that she could communicate with us was by blinking her eyes. She could not move anything else. She had no other way to communicate with us.

There is a hope, realizable, who knows, until we conduct the research, that is a particular tragic disease. Although it was not specifically diagnosed in my mother because she had other ailments that were easier to diagnose, she lived to be 92 and I am sure that she had Alzheimer’s because she had many of the symptoms. It was tragic to watch a woman who was very bright and vital lose her ability to remember, lose a sense of proportion, to be calling, Roscoe, Roscoe. I would say, I’m here. She said, oh, you’re not Roscoe because my father was Roscoe, Sr., and she was way back 50 years earlier in her memory. There is a hope that stem cell research could help cure diseases like this.

I have here a very large number of autoimmune diseases. There are 63 of them here. I have mentioned a couple of them. Autoimmune diseases are diseases where the body fails to recognize itself, that is, the parts of the body that have to do with recognizing foreign invaders and assailing them, ejecting them, killing them.

Very early in our embryonic development, we have a very special kind of life cell which we call T cells. Very early in our embryonic development, they are imprinted with who you are. There are 6.5 billion of us in the world and these T cells are smart enough to recognize a difference. There may be somebody out there close to you, but not you, and there is another, and you try to take their body organ and put it in you, these T cells are going to recognize it as foreign and move to reject it. Sometimes for reasons we do not understand, these immune reactions in the body get confused, and they attack the body itself.

We have a large number. Lupus was probably the first widely recognized of
these diseases. What has happened is that when the body is attacked, the specific tissues of the body are attacked, they degenerate and become not useful. There is some evidence that the body develops an ability to recognize self. But if the hope is that after this has happened, if you could replace the damaged tissues, that the person gets returned to normal function. There is enormous potential from use of stem cells, whether they are embryonic or adult, to cure many, many diseases.

The argument today is about whether it should be adult stem cells or whether it should be embryonic stem cells. We have been working with adult stem cells, Mr. Speaker, for over 3 decades, and so there have been a fair number of applications to medicine. You will hear the figure 58. We have been working with embryonic stem cells—tissue over 6 years. There just has not been time to make those applications, but the fact that there are presently no applications to medicine of embryonic stem cell work does not mean that there will not be and it does not mean that those applications might not be more efficacious than adult stem cell applications.

Indeed, if you will talk to the researchers and the experts in this area, they will all tell you to a man and to a woman that the potential for embryonic stem cell application to medicine should be greater than adult stem cell application just because embryonic stem cells, they are called totipotent, they have more properties and anything that is in the body. The adult stem cells have already been differentiated, at least to some extent; and so they are limited in their potential application.

There is another very interesting potential that I do not hear often discussed of embryonic stem cells. Fifty years ago when I was studying and teaching in this area, there was an experiment where the researcher went into a woman that the potential for embryonic stem cells to make this happen. Early in this debate, I had a personal involvement which was kind of an interesting one.

In a former life, I got a doctorate in human physiology. I taught medical school. I did medical research. I went out to NIH in 2001 when the President made his executive order. It was an information meeting at NIH where the scientists working in this field were briefing, they were largely staff members from the Hill. I think I was the only Member there. It occurred to me that you ought to be able to take cells from an early embryo without hurting the embryo, because nature has been doing that forever as far as we know. That is what happens in identical twinning.

I would like to look at that next chart. This is two zygotes. This is not identical twinning. I just wanted to contrast this with identical twinning. This is where we have fraternal twins. They are so-called wombmates. They could be two girls, two boys, one of each. They are conceived at the same time. The mother that ordinarily sloughs one ovum a month this month sloughed two ovums and the sperm, and there are a whole lot of those, millions one on both of them, and they fertilized both of them and the uterus was receptive so they both were implanted in the uterus. This simply shows how they present at birth, depending upon how they implanted. If they are implanted far apart, they present one way at birth. If they are implanted very close together, they present another way at birth.

The next chart shows twins from monozygotic twins, that is, from a single zygote. This presentation looks very much like the dizygotic, that is from two eggs, dizygotic twins that implanted in the uterus very close together. Knowing that in identical twinning, regardless at what stage it occurs and it can occur all the way from the two-cell stage clear up to the inner cell mass and there are several stages between these two, but no matter where it occurs, the embryo has lost half of its cells and both parts go on to produce a perfectly healthy baby.

So I reasoned that it should be possible to take cells from an early embryo without hurting the early embryo and I asked the researchers at NIH, was that possible. They said, yes, of course that is possible. But with all the embryos that are there that could be simply destroyed to get the stem cells, nobody had determined how easy this was to do. But they said that it certainly was doable.

A little bit later, and this was again before the President gave his executive order, I met the President at an event and I told him very briefly that I had met with NIH, and there was this possibility that we could take cells from an early embryo without harming the embryo. He asked Karl Rove to follow up on that. Several days later, Karl Rove called me, Mr. Speaker, and he said, Roscoe, I went to NIH and I told them that we had told the President, and they told me they cannot do that.

I said, Karl, there is some problem here. Either they misunderstood your question or something because these are the same people that go into a single cell and take out the nucleus and put another nucleus in the cell. Of course they can go into a relatively large embryo and take out a cell or two. He went back to talk with them again and called me back and said, they are telling me the same thing. And so the President came out with his executive order which said that Federal funds could be used in research only on the cell lines that had been developed from embryos that had been in the process of embryo developing them, that no new cell lines could begin with embryos that had to be killed.

This is only with Federal money, of course. The private sector can do whatever it wishes because there is no law prohibiting the use of embryos. My concern, Mr. Speaker, is that we in Congress ought to be a player in this, and now we are standing on the sidelines.

Mr. Speaker, I see that the gentleman from Georgia (Mr. GINGREY) has joined us, and I yield to the gentleman. Mr. GINGREY. Mr. Speaker, I thank the gentleman from Maryland for yielding to me. And I think particularly at this point I wanted to interject some thoughts.

First of all, the gentleman from Maryland (Mr. BAILEY), as he pointed out just a second ago, is a Ph.D. physiologist who taught years ago in medical school and taught physiology but, more importantly, has also taught the subject matter, which is difficult to understand, I know. I was there in medical school. And that is the subject of embryology. Embryology. Medical students get maybe in a 4-year period of time, 6 months' worth of embryology; and of course, to hear my colleague from Maryland explaining the embryologic process, it sort of takes me back to those days.

But I realize, of course, how difficult it is to understand for Members of the body. There are 435 of us, of course, and just a handful have ever taken any embryology. There are no embryologists other than maybe the gentleman from Maryland (Mr. BAILEY) in the body; so it is not an easy concept to understand.

But what I hear my colleague tell us, Mr. Speaker, is that is it possible to get cells from an embryo without destroying the embryo. Is it being done today? No, it is not being done today because, quite honestly, it is easier to...
scramble an egg than to do one over easy.

It is a little more difficult. It will take some study. And we are not talking about long, many years, science fiction at all; and the gentleman from Maryland explained it very clearly. We are not discussing a little research, nonhuman primate research, but we are a lot closer to this possibility than a lot of our colleagues and the general public understand.

Mr. BARTLETT, I want to share with my colleagues as an OB/GYN physician, there is a procedure that probably has been done for at least 10, 12, maybe 14 years now. There is an acronym; everything has an acronym. It is called ICSI, intracytoplasmic sperm injection.

What do I mean by that? An infertile couple where the problem is male infertility and a low sperm count. A normal sperm count is 60 million. That is a lot. When we get below 1,000, it is very difficult. The chances of a normal conception are markedly diminished at that point.

But with this ICSI technique, they literally can obtain sperm by a biopsy in someone who has just a few sperm, not 60 million, but maybe just a few; and take one sperm from that biopsy and under the proper laboratory techniques, maybe a specialized microscope, take the wife's egg and inject that sperm with a needle, with a very fine needle, under the microscope. Intracytoplasmic sperm injection, and all of a sudden an embryo is created. Life is created. A child is created. And after several days in cell multiplication, as the gentleman from Maryland (Mr. BARTLETT) was explaining, then that is implanted in the mom's uterus, and the miracle of birth can occur for that couple.

We are not talking about a procedure, ICSI, that is being done exclusively at the National Institutes of Health. This is being done right in my community of Marietta, Georgia, by reproductive endocrinologists, those doctors who specialize in infertility and doing those kinds of things; and it has been going on for 10, 12 years now.

So this is an opportunity to come and share this time with my colleagues and say that this is not Star Wars. For goodness sake, we put a man on the moon in 1969. There is a way to do this. That is to obtain embryonic stem cells without destroying or indeed even harming the embryo, and that analogy, that explanation of twinning and how the mono-zygotic single egg identical twin that the egg divides at a certain stage; and indeed, they are taking away 50 percent of the cells, and in most instances, if the division is complete, they have two perfectly identical, beautiful children that develop. I know. I have got two precious identical twin granddaughters now who are 7 years old. Mr. Speaker. They were born at 26 weeks. It is it is perfectly legal with very little prescription in our respective States to destroy those lives.

So this is a hugely important thing to me, and I thank my colleague for pointing out the fact that we are not that far away. With a little study, a little funding to be able to develop this technique of obtaining these stem cells, these totipotential cells, as he said, embryos in the egg, and doing it the easy way, the simple way, killing the embryo, which is destruction of life. It is not necessary.

And we are going to be talking, Mr. Speaker. That is the reason I am here to talk about the great successes that we are achieving today with stem cell technology, not but embryonic stem cells. The results there have been pretty dismal. We are talking about the great success, 58 different research endeavors where progress has been made in these various diseases that the gentleman from Maryland (Mr. BARTLETT) described, utilizing either stem cells obtained from umbilical cord blood or from adult stem cells, bone marrow and other tissues.

So this is why it is so important for our colleagues to hear from the gentleman from Maryland (Mr. BARTLETT) and to think about this, to understand exactly what he is saying, because I think it is really on point and very timely.

Mr. BARTLETT of Maryland. Mr. Speaker, I appreciate my colleague's coming and entering into this discussion.

Before leaving this little experience with NIH, I will, Mr. Speaker, submit for the RECORD a letter which I received today from Dr. Battey, who is the spokesman for embryonic stem cell research at NIH, and what the letter says is, and I will come back to it in a few moments to read a couple parts from it, that what we are proposing to do is certainly possible; that there is no medical or scientific impediment to doing this. I just wanted to put to bed the one that was going on, that we are doing cannot be done in spite of the fact that is what Karl Rove thought they said.

In my office just a few months ago, NIH kind of sheepishly admitted that there was some misunderstanding in the genetics. All they are doing here is seeing what genetics are there, and if there is no deficiency in the genetics, they implant the six or seven cells that remain, and more than 1,000 times they have had a normal baby.

All of this happened in the intervening years between 2001 and now. This may have been going on when I talked to the President and when I talked to NIH. I did not know that it was happening. Just a few months ago, this report came out, and now I spent the other day, for a half-hour, probably, talking with two investigators here in Virginia who are doing this.

I just want to spend a couple of moments talking about the debate. The debate is between the use of discarded embryos that the proponents, and that is what the bill is tomorrow, say are going to be thrown away anyhow and we do not get some good from them by developing them into stem cell lines from them since they are going to be discarded anyhow?

The argument on the other side is twofold. First of all, it is not certain that they are going to be discarded because they can be adopted. What is it? Operation Snowflake where parents can adopt one of these embryos and have them implanted in a mother other than the one from whom the ovum was taken. So it is not certain that they are going to be discarded.

The other challenge to this is that this is a life. In the proper environment, this is a human being. It is an
embryo. Put it in the mother’s womb, and it will become a very distinct human being, unlike any other out of the 6.5 billion people in the world. And there are those who feel that it is immoral. The President is among them, and he has said this, that it is immoral to take the life so that we might help another.

The good news is, as the gentleman from Georgia (Mr. GINGREY) said, we do not have to do that because we can take cells from an early embryo without hurting the embryo.

By the way, umbilical cord blood stem cells are not an alternative to embryonic stem cells. Just a little quote here. This is from a scientist at the Johns Hopkins University School of Medicine, one of the best medical schools in the world: “As a physician-scientist who has done research involving umbilical cord blood stem cells for over 20 years, I am frequently surprised by the thought from nonscientists that cord blood stem cells may provide an alternative to embryonic stem cells for research. This is simply wrong,” he says.

Do they have a place in treating? Yes, they do. But they are not a substitute for embryonic stem cells, and he makes that plain.

Opponents of embryonic stem cell research suggested that 58 diseases have been successfully treated using adult stem cells. That is true.

I asked NIH, is this the only time that we had 58 treatments from adult stem cells and none from embryonic stem cells?

They said yes, that is true. I said, why is that true? That is true because we have had more than 3 decades’ experience with adult stem cells, and just a little over 6 years’ experience with embryonic stem cells. There simply has not been time. All of the 58 listed, all of them, are represented by organizations that support stem cell research. So what this says is that all of those physicians that are involved with these 58 applications of adult stem cells, all of them support stem cell research.

The argument on the other side is that it is immoral, that we should not take one life to support another life; and in making those claims, they state the following: this kills human embryos. It does. You may not think that is a problem. You may not see this little bit of life that holds the miracle of chromosomes and against that will develop the whole unique individual, not like any other. Out of 6.5 billion in the world, you may not see that as a human life, but it clearly is. It kills a human embryo. You may be okay with that, you may not be, but a great number of people are not okay with that.

They argue that H.R. 810, which is the bill we will be voting on tomorrow, is an empty promise because the embryos have not treated a single human disease, and that is true. We just gave the reason for it: they have not been worked with long enough to know whether they can treat a disease or not.

H.R. 810 does not have 400,000 discarded embryos to use, that is true; and the statement is made that if you used these 400,000 embryos, you would only get 275 stem cell lines, and that is because only 2.8 percent of them have been donated for research. That gets you down to 11,000, not 400,000. Only 65 percent of those will survive the thawing. They are frozen. This is not an easy process. It is very traumatic to the embryos. A third of them do not survive the freezing and rethawing.

Twenty-five percent of those that are still alive after they thaw, only 25 percent will go on through this development stage, through the blastula, gastrula and so forth, so they can be implanted. Then, even if it has gone that far, in one trial only one out of 18 attempts produced a stem cell line, and in another the one out of 40 produced a stem cell line. So that now gets you down to about 275.

Yes, we have not developed perfection yet in these techniques; but 275 stem cell lines is more than all the stem cell lines we have now, which, by the way, I think are almost all in this country contaminated with mouse feeder cells.

I see that I have joined by my colleague from Nebraska. I would be happy to yield to the gentleman from Nebraska (Mr. OSBORNE) for his comments.

Mr. OSBORNE. Mr. Speaker, I thank the gentleman very much and applaud him for his effort. I have been able to listen to most of what was said tonight. Obviously, the gentleman has a tremendous depth of scientific understanding. I do not have that depth, but I would just like to reflect on the dilemma that many Members will be placed in tomorrow as we decide on this particular vote.

As the gentleman has mentioned, those who are in favor of the embryo or embryonic stem cell research, many of them are people who have children who have juvenile diabetes. There are many who have parents or others with Parkinson's or Alzheimer's and Lou Gehrig's disease and so on. We have heard from these people personally, and our hearts go out to them. We have heard that 400,000 embryos are going to be discarded anyway, and on and on and on.

Yet, on the other side of the argument, and so well, there are some other dilemmas. One thing that is of concern to me is when is a life a life? Obviously, we would not take a 2-year-old and do any harm to that child; we would not experiment. We would not do it to a 1-year-old. Probably, in many cases, most of us would say an 8-month-old fetus would not be appropriate to do some harm to. But where is it that you draw the line? Is it at 6 months? Is it at 4 months? Is it at 1 month? Is it at 1 week?

So therein lies the horns of the dilemma. So many of us are of the persuasion that you really cannot draw that line. When a life is a life is at conception, and therefore you have to respect life. There is a certain sanctity of life.

So, again, the arguments will range wide and far tomorrow on how they think that embryos can be adopted, and they can. So whether we have 400,000 or 20,000, maybe 1,000, maybe 10,000, maybe 15,000, maybe more than that will be adopted out.

I would argue that adult stem cells are more productive in research. As the gentleman has pointed out so effectively here, some of that has to do with the length of time of research. There is no question. But there is no question that adequate resources and adult stem cell research will produce results.

There is also the question about private funding. There is no restriction on private funding on embryonic stem cell research. If it is so promising, then why has the private sector not stepped up? For those obviously there are huge profits to be made if you have some type of a cure for juvenile diabetes or Alzheimer's or whatever; and yet we do not seem to see that afoot.

Then I guess the last thing that I would mention is that there is the ethical question, should we use public funds in doing research that is so divisive, that has so many people on both sides of the fence? It seems we should have more unanimity in using public funds to do this type of work.

So I applaud the gentleman for the proposed legislation that he has before us, because in this legislation is the prospect of using embryonic stem cells without destroying the embryo. Of course, that removes the dilemma on both sides. So we think that the legislation, even though it is in its early stages, certainly has great promise and is one that we ought to pay very close heed to and one that would certainly be much more appealing to me than the other alternatives at the present time.

Mr. Speaker, I just wanted to come down briefly and let the gentleman from Maryland (Mr. BARTLETT) know I appreciate his efforts. I have read the White House white paper. I understand most of what is in there.

One other thing that is also mentioned is the fact that when these frozen embryos are thawed out, many of them die, as the gentleman mentioned; and some of those apparently will yield stem cells in the early stages.

Anyway, Mr. Speaker, I thank the gentleman again for this legislation.

Mr. BARTLETT of Maryland. Mr. Speaker, reclaiming my time, I thank the gentleman very much.

Mr. Speaker, let me yield to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding, and I thank my friend, the gentleman from Nebraska (Mr. OSBORNE), for being here with us tonight and for his very, very pertinent remarks in regard to where do you draw the line as far as life.
I have heard people on the other side of this argument say, well, we are talking about getting these stem cells, and they are not really embryos, they are pre-embryos.

Maybe our Ph.D. physiologist knows about this. Professor of pre-embryo is not what I never learned that in embryology or any medical school course I took or in my obstetric and gynecology training and my 30 years of experience in the field. An embryo is an embryo. An embryo begins at the moment of conception or fertilization and they are going to get embryonic stem cells from a cloned embryo, and we are getting further and further behind.

The thing that the American public maybe does not understand is that when they are asked the question, are you for embryonic stem cell research that can cure some of these dreadful diseases, my colleagues have talked about, they refuse. We are hearing a lot now about we have to catch up with therapeutic cloning and they have cloned an embryo and they are going to get embryonic stem cells from a cloned embryo, and we are getting further and further behind.

I wanted to just kind of follow on the gentleman from Nebraska’s remarks. We are hearing a lot now about we have to catch up, Mr. Speaker, that we are behind. The South Koreans have come up with therapeutic cloning and they have cloned an embryo and they are going to get embryonic stem cells from a cloned embryo, and we are getting further and further behind.

The thing that the American public maybe does not understand is that when they are asked the question, are you for embryonic stem cell research that can cure some of these dreadful diseases, my colleagues have talked about, they refuse. We are hearing a lot now about we have to catch up with therapeutic cloning and they have cloned an embryo and they are going to get embryonic stem cells from a cloned embryo, and we are getting further and further behind.

But I think so many people, Mr. Speaker, and even some of our colleagues, need to understand that in getting those embryonic stem cells, the life is destroyed. And when you ask that question, well, wait a minute now, if you are talking about sacrificing one life to get these cells in hopes that they might lead to at some point in the future a cure, no, I am not for that.

So I think we need to be very clear by it, Mr. Speaker. We need to make sure that people understand that the harvesting today and the way it is done and the way it is proposed and the way we are hearing from the Castle-DeGette bill we are going to discuss tomorrow, we are doing dollar for dollar, where people had no choice, they had to pay their taxes, we are going to use those dollars to fund research that involves the destruction of human life, a little, tiny infant, who with a little bit of luck and ingenuity could grow up and be a Member of this body some day. We were all, were we not, embryos at one time. Of course we were.

And when you get this and you start down this slippery slope in regard to what the South Koreans are doing, purpose, Mr. Speaker, that the harvesting of these stem cells from these cloned embryos that the results are not very good, as they have not really been very good in the embryonic stem cells we have retained from these so-called throw-away babies, these 400,000 in these fertility clinics. The results have not been that good. That is why the gentleman from Nebraska said that most of the private funding is going toward adult stem cells.

But what I am saying, and I will wrap this up pretty quickly because I know the gentleman’s time is running short, in these cloned embryos, if it is not true in the first two weeks, in those embryos, the embryonic cells, why not let these babies develop, maybe to the point 26 weeks, the stage at which my precious twin granddaughters were born, and then you have got an organ that you can transplant, a liver, a pancreas, and you can then just simply destroy the child at that point and take their organs?

This is a slippery slope upon which we are about to start if we do not have an alternative, and the gentleman from Maryland (Mr. BARTLETT) has an alternative to this, and it is something that I think is timely and it is good and I commend him for his efforts.

Mr. BARTLETT of Maryland. Mr. Speaker, reclaiming my time, I thank the gentleman.

I have here a very recent report, “Alternative Sources of Human Pluripotent Stem Cells,” a white paper by the President’s Council on Bioethics, and the next chart shows page 25 from this.

The highlighted part says: “It may be some time before stem cells can be reliably derived from single cells,” the process we have been talking about, “extracted from early embryos and in ways that do no harm to the embryo,” thus biopsy. “But the initial success of the Verlinsky Group’s efforts at least reaches the possibility that embryonic stem cells could be derived from single blastomeres rather than from the embryos without apparently harming them.”

Then there is an asterisk, and if you go to the bottom of the page it says: “A similar idea was proposed by Representative ROScoe BARTLETT of Maryland as far back as 2001 before the President gave his executive order.”

There are four potential sources listed here. This source is number two. They do a very good job of discussing this in the body of the text. They talk about parents going for pre-implantation genetic diagnosis. They talk about the possibility that you could develop from the cell or cells taken a repair kit.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for that.

This is a fascinating potential. This is why we are collecting and freezing umbilical cord blood, because we hope that through the life of that person, working too well with the ingenuity, they might be some opportunity to use stem cells. They are not embryonic, they have limited application, but maybe, just maybe, we could produce something that would help that person later on with a disease.

But in this case, if they did preimplantation genetic diagnosis and if they developed a repair kit from that, then all that we would ask for is that a few surplus cells from the repair kit could be made available for a new stem cell line.

But that is not even what our research, our paper, our bill asks for. What our bill asks for is simply Federal money to do research on animals, on nonhuman primates, that is, the great apes, which are remarkably similar to humans, if it works there, it probably would work in humans, to determine the efficacy and the safeness of doing this.

Unfortunately, if all that you read was their recommendations, you would be disappointed, because they never therein mention that the parents have made an ethical decision to make sure they do not have a baby with a genetic defect, the parents who made a decision to establish a repair kit so that their baby at any time during their life could have available compatible tissue to fix a medical problem. They simply state in their recommendation section that they consider it unethical to go to an embryo and take a cell out of it just to establish a stem cell lot.

It must be that a different person wrote the recommendations at the end as compared to the person or persons that wrote the text in the front, because they certainly should have mentioned the parents’ decision to develop a repair kit, the parents’ decision to make sure that their baby did not have a defect. These are decisions that parents make, I think, ethically to the benefit of their baby and for all that we would hope in the future. And, again, what it deals only with the experimentation to determine the efficacy and the reliability of doing this.

The next chart shows another development chart, and I would just like to reemphasize: Now, imagine this is not in the mother, this is an infant diabetes, in the ovary and the fallopian tube here. Imagine that this is in a petri dish and not in the mother, and we fertilized the egg, and it has now developed to the eight-cell stage, and we can take a cell from that stage and do a preimplantation genetic diagnosis. Maybe as the authors of the white paper said, you could develop a stem cell line from that. We do not know. They simply have not tried. It has been too easy to take and kill embryos to get stem cell lines from them.

The next chart is one that I thought was an argument that maybe is a problem, Mr. Speaker. They address this in the President’s white paper. They do not think it is a problem. When you read that white paper you will see that they are bending over backwards to satisfy all of the concerns that an overconcerned prolife person could have. They do not believe that you could develop an embryo from a single cell.
But if we waited a little later, and I have asked the researchers, the medical people who are doing this preimplantation and genetic diagnosis, if they could wait until the inner cell mass stage, if they could wait until the inner cell mass stage to take the cell. Now this is a point that is a logical argument, because we already have a differentiation that has occurred. There are now two kinds of cells in what we call the embryo. There is the inner cell mass, which will become the baby; and then there is the rest of the trophoblast which will become the decidua. The decidua is the amnion and chorion.

Now, you cannot have a baby without amnion and chorion; it cannot grow. So if you take cells only from the inner cell mass, they could never become an embryo because these cells have lost all of their ability to produce the decidua, but they retain all of the ability to produce the cells of the body, the great variety of cells in the body. I am prolife. I have an impeccable, 100 percent prolife voting record. I would not be here on the floor today talking about a possible solution to this debate if I did not think that this was perfectly ethical and probably perfectly doable.

I hope, Mr. Speaker, that a number of my colleagues will sign on to our bill. We are going to hold this until about noon tomorrow, because we would like to get as many prolife signers as possible.

If the other bill reaches the President's desk, no matter what he decides, some people are not going to be happy. If he vetoes the bill, as he has said he would, then all of those Americans, and I believe it is a majority, as there will be a majority tomorrow that vote for H.R. 810, will wonder why it is not okay to take these embryos that hardly look like a baby, just eight cells, to take these cells, they are going to be discarded anyhow. And given the two arguments, they may not be discarded, they may be adopted, and at the end of the day, you are taking a life.

If you think it is okay to take one life to help another, that is okay, but a lot of people do not think that is okay. On the other hand, if he lets it become law, then he is going to offend all of those prolife people who really see this as H.R. 810.

What I hope, Mr. Speaker, is that my bill can be on the President's desk when he is faced with the unhappy choice that he will have with this bill, so that he can now say, Gee, I have a bill which supports what I want, and that is embryonic stem cell research without harming an embryo.

We are not ready yet to work with humans. This bill addresses only animal experimentation. But as we saw earlier, Mr. Speaker, from this chart that we avoid from that section of the white paper, let me put that back up because I think it makes the point, it may be some time. That is why we have researchers and that is why we have money from NIH, because it may be some time before stem cell lots can be reliably derived from single cells. They believe that it is possible to do that. It may take some time, taken from early embryos in ways that do not harm the embryo. As we have pointed out, they will be taken to benefit the embryo, to do preimplantation genetic diagnosis and to develop a repair kit for the embryo.

But the initial success of the Verlinsky group in Chicago at least raises the possibility that pluripotent stem cells could be derived from single-embryo removed from early human embryos without apparently harming them. Indeed, if it is taken for preimplantation genetic diagnosis and to establish a repair kit, not only are they not harmed, they are benefited by it.

Mr. Speaker, I know that all America will be watching this debate; they just voted its continued support to pursue this. I believe we can pursue all of the potential miracles that could come from embryonic stem cell research and applications to medicine without harming embryos, and I urge an early vote and adoption of this bill.

Mr. Speaker, I submit the following for the RECORD:


Hon. Roscoe G. Bartlett, Rayburn House Office Building, Washington, DC.

DEAR MR. BARLETT: I am pleased that Drs. Allen Spiegel and Story Landis were able to meet with you, Mr. Otis and Mr. Attkin during your visit to the National Institutes of Health (NIH) last month to discuss ways to derive human embryonic stem cells (hESCs). Drs. Spiegel and Landis were serving as Acting Co-Chairs of the NIH Stem Cell Task Force during my leave of absence from April 26th until this month, when I returned to chair the Task Force. NIH shares my enthusiasm on the therapeutic potential of hESCs and I appreciate your continued support of this field.

Drs. Spiegel and Landis briefed me about your April 26th meeting. I am also aware that you have had previous meetings with NIH officials, including myself, Lana Skirboll and Richard Tascia, on this topic. You propose the possibility of using a cell (or two) removed from the 8-cell stage human embryo undergoing preimplantation genetic diagnosis (PGD) to: 1) create a “personal repair kit” made up of cells removed from the inner cell mass of the human blastocyst, that is the stage that immediately precedes the formation of the blastocyst; and 2) for deriving human embryonic stem cell lines.

You suggested that creating hESCs lines in this manner would avoid ethical questions surrounding human embryos. Live births resulting from embryos which undergo PGD and are subsequently implanted seem to suggest that this procedure does not harm the embryo, however, there are some reports that a percentage of embryos do not survive this procedure. In addition, long-term studies would be needed to determine whether preimplantation genetic diagnosis introduces any subtle or later-developing injury to children born following PGD. Also, it is not known if the single cell removed from the 8-cell stage human blastocyst will become an embryo if cultured in the appropriate environment.

NIH is not aware of any published scientific data that has confirmed the establishment of hESCs from a single cell removed from an 8-cell stage embryo. We are awaiting the publication of the published papers by Verlinsky in the Reproductive Genetics Institute in Chicago that showed that a hESC line can be derived by culturing a human embryonic stem cell (Fertil Steril, 2004 Vo. 9, No. 6, 629-629, Verlinsky, Strelchenko, et al). It is also worth noting, however, that in these experiments the entire morula was removed and used to derive the hESC lines. The human morula is generally composed of 10-30 cells and removal of this stage will not cause cell mass to become an embryo.

At the April 26th meeting, NIH agreed that such experiments might be pursued in animal embryos. However, one of the key challenges is, animal experiments could be conducted to determine whether it is possible to derive hESCs from a single cell of the 8-cell or morula stage embryo. To date, to the best of our knowledge no such derivations have been successful. NIH also does not know whether these experiments have been tried and failed in animals and/or humans before, and therefore have not been reported in the literature. NIH agreed to explore whether there have been attempts to use single cells of the 8-cell or morula stage of an animal embryo to start embryonic stem cell lines by consulting with scientists that are currently conducting embryonic research. In discussions, these scientists believe it is worth attempting experiments using a single cell from an early stage embryo or cells from a morula of a non-human primate to establish an embryonic stem cell line.

Of note, a recent 2003 paper from Canada shows that when single human blastomeres are cultured from early cleavage stage human embryos, before the morula stage, that there is an increased incidence of chromosomal abnormalities. Even with hESCs derived from the inner cell mass of the human blastocyst, the odds of starting a hESC line from a single cell are long, perhaps one in 20 tries. Thus, the odds of being able to start with a single cell from an 8-cell or morula stage embryo are equally challenging. This would make it difficult to accomplish the goal of establishing “repair kits” and hESCs lines from any single PGD embryo (J. Hum. Reprod. Genet. 1996, 22(6): 353-355). It is possible, however, that improvements in technologies for deriving and culturing hESCs may improve this.

NIH concludes that the possibility of establishing a stem cell line from an 8-cell or morula stage embryo can only be determined with additional research. NIH would welcome receiving an investigator-initiated grant application on this topic using animal embryos. The Human Embryo Research Ban would preclude the use of funds appropriated under the Labor/HHS Appropriations Act for pursuing this research with human embryos. A new grant application must be deemed meritorious for funding by peer review and then will be awarded research funds if sufficient funds are available.

It also bears keeping in mind that it may take years to determine the answer.

At the April 26th meeting, you mentioned that you believe that the inner cell mass splits in the blastocyst and forms two embryos enclosed in a common trophoblast. You asked if cells from the inner cell mass could be safely removed from a single embryo without harming the blastocyst. In animal studies, it has been shown that the blastocyst can be pierced to remove cells of the inner cell mass and the embryo appears to repair this original defect. NIH does not know whether the embryo will result in the birth of a healthy baby. Since this experiment in
human embryos at either the morula or the blastocyst stage would require evaluations of not only normal birth but also unknown long-term risks to the person even into adulthood, would have to be considered a very high risk and ethically questionable endeavor. Because of the risk of harm, this research would also be ineligible for federal funding.

You know, NIH about the unrest stage in development that an embryo can be artificially implanted into the womb. We know that infertility clinics transfer embryos at the blastocyst stage (approximately Day 5 in human embryo development) as well as at earlier stages.

Finally, I am providing an additional resource that was discussed at the April briefing. I have enclosed a copy of a recently released white paper developed by the President’s Council on Bioethics (PCB) on Alternatives of Human Pluripotent Stem Cells. In this white paper, the PCB raised many ethical, scientific and practical concerns about alternate sources for deriving human pluripotent stem cells without harming the embryo. Your proposal is specifically discussed in this report.

I hope this information is helpful.

Sincerely,

JAMES F. BATTEY, Jr.,
Chairman, NIH Stem Cell Task Force.
Enclosure.

30-SOMETHING WORKING GROUP

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

Mr. MEEEK of Florida. Mr. Speaker, once again, it is an honor to be here before the House of Representatives and have an opportunity to speak to the Members and to the American people.

Mr. Speaker, we would also like to thank the Democratic leader, the gentlewoman from California (Ms. PELOSI), along with the Democratic whip, the gentleman from Maryland (Mr. HOYER), and of the gentleman from New Jersey (Mr. MENENDEZ), the chairman of the Democratic Caucus, and also the vice chair, the gentleman from South Carolina (Mr. CLYBURN) for providing the kind of leadership that Americans need and want here in this great country of ours.

This week, as every week, we come to the Floor, the 30-something Working Group that was formed in the 108th Congress by Leader PELOSI to talk about the issues that are not only facing the 30-somethings, but also facing the American people in general.

We also come to the Floor, along with the gentleman from Ohio (Mr. RYAN), my good friend, we come to the floor to be able to talk about a number of issues that concern Social Security, but also student loans; to talk about issues facing the environment, as well as the ever-growing debt, which is always on our agenda.

Without any further ado, I would say to the gentleman from Ohio (Mr. RYAN) how we are going to talk about the facts that you have committed, and our good friend, the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ), who will not be here tonight, every night to come to the floor to share good and accurate information not only with the Members of Congress, but with the American people.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for the opportunity too.

In the past several months, really since the beginning of the year, the President initiated a Social Security plan that he wanted to promote to the country. To privatization, these private accounts were going to be the answer to the Social Security solvency problem. We have been, just about every week since the beginning of the year that we are in session here in Washington, we have been talking about why the President’s privatization scheme really is not the answer for the country.

The President, when he initiated this discussion after the election, began to say that it was a crisis and it was a crisis for the country. What we all needed to address, what we want to do tonight is, we want to begin by saying that Social Security is a solvent program. There is no crisis within the Social Security program. Do we want to make Social Security solvent? Of course, we do. Do we need to tinker with the program? Yes, we do. But is there a crisis there? We really do not think so.

So tonight we are going to begin to talk about the facts. The Social Security is a solvent program and show a few numbers that we have shared with the American public every week that we have been on, but also get into some of the areas where we believe a crisis does exist in this country that needs immediate attention.

So we have this graph here that basically shows that Social Security is secure for many, many decades to come. These are facts. These are the Congressional Budget Office numbers that they have given us.

The CBO is a nonpartisan organization, a nonpartisan group, and if they would lean one way or the other, the Republicans control the House, the Senate, and the White House, so if they are going to lean any one way, which I do not believe that they do, they would certainly lean in favor of making it look like Social Security is less secure than it actually is.

So this graph here, we can see that starts in 2005, and it goes to 2075, so it gives us a 70-year span. And from 2005 to about 2047, 2048, 2049, right in there, if we do absolutely nothing with Social Security, Social Security recipients will still receive 100 percent of their benefits. And all in the blue here. So from 2005 to the late 2040s, if we do absolutely nothing with the program, if we do not touch it at all, we are still going to get 100 percent of our benefits up to the late 2040s, 2047, 2048. So at 32 years old, right now, I will be 72 years old, just about 72, on Social Security. So I will be guaranteed, if we do nothing, to at least get 100 percent of what I would earn right in here, or someone else who is 22 years old. Then, after that, from the late 2040s into 2075, one would still receive 80 percent of one’s benefits if we did nothing.

So what we are saying on this side of the aisle is, is there a problem? Yes, of course. From 2047 to 2075 and beyond a few number would only get 80 percent of what they should be getting now. So that is a problem.

Is that a crisis? No, that is not a crisis. Something that happens 40 years from now is not a crisis. What we want to do is, just show this is not a crisis; 100 percent of the benefits will be paid until the late 2040s and, beyond, still get 80 percent.

So if the President wants to sit down and work out a program, we are going to be able to deal with this 80 percent issue here coming 40-some years from now, and we will sit down and talk with the President.

But, unfortunately, the plans that are floating around Congress cut into the 100 percent benefits here and begin to reduce some of the 100 percent benefits there.

Mr. MEEEK of Florida. Mr. Speaker, I would say to the gentleman from Ohio (Mr. RYAN), just one moment. I want to ask just a quick question. What is a crisis? I mean, the President is saying, and some of the Members of the majority side leadership are saying that Social Security is in a crisis. And I cannot help but look in the dictionary when we start talking about crisis, because a crisis, there are a number of things that we can point out that are actually a crisis. And as the gentleman from Ohio knows, we received some e-mails that I hoped the gentleman would read early in our Special Order here. But we took a look at Webster’s and exactly what does crisis mean. And basically it says, an unstable situation or extreme danger of a serious nature.

Now, 40 years from now, as the gentleman from Ohio had the other chart here. I could say that it would be a crisis if Social Security, like the administration and the majority side use words like, is going bankrupt. What does bankrupt mean? Bankrupt means that there is no money coming in or no money going out, and it is tomorrow, and it is eminent danger.

Mr. RYAN of Ohio. There is no money.

Mr. MEEEK of Florida. There is no money. And I can tell the gentleman from Ohio right now, from what the gentleman has just said, and it is not just the gentleman from Ohio’s (Mr. RYAN) report. That is from the Congressional Budget Office of this House of Representatives that put forth the kind of information that we need here in Congress, that we need to share with the American people and the Members on this Congress.

I think it is also important to understand that, yes, we do want to work on Social Security and strengthen Social Security on this side of the aisle, but...
we will not buy into the rhetoric of a crisis.

I would say to the gentleman from Ohio (Mr. RYAN), a crisis, in my opinion, is what we are in on the deficit. We are at a crisis level when it comes down to the greatest deficit in the history of the Republic.

You want to know what a crisis is? And I hope that we continue to share this with our colleagues. A crisis is that family right now that is a part of the 46 million American families that are working that do not have health insurance. That is a crisis. A crisis is the fact that small businesses cannot provide health care insurance for their employees. Many businesses are telling their employees you can get a better plan if you apply for Medicaid. That is a crisis.

Furthermore, if you want to talk about a crisis, a crisis is families trying to put gas in their tank. That is a crisis, because some families have had to pull their kids out of school or soccer or Boy Scouts or Girl Scouts, to be able to conduct themselves in the way that they want to. That is a crisis. These gas prices have doubled and tripled in some cases.

And then we talk about issues that are facing our veterans. Providing health care for our veterans, that is a crisis. And so there are a number of issues that are there. And I say to the gentleman from Ohio (Mr. RYAN) this whole issue of abuse of power. I am sorry. I just want to point out a few things.

Mr. RYAN of Ohio. Nothing to be sorry about.

Mr. MEEK of Florida. Because we are, I think those of us that are in 30-something, and Members of the Congress, are sick and tired of individuals in Washington using Social Security as though it is some sort of a get-rich-quick scheme, or going back to the definition, an unstable situation.

Mr. RYAN of Ohio. And I thank the gentleman. And let us take the definition and apply it to this chart. A crisis is an unstable situation of extreme danger, or difficulty. Unstable situation.

Now, how could you call this, 100 percent of the benefits for the next 40 years, how is that an unstable situation? That is a stable situation. It needs to be dealt with. But extreme danger or difficulty? How could you call from 2005 to the late 2040s extreme danger or difficulty? It does not apply here. And using the word “crisis” is extreme, and it is trying to scare the American public. And you see it in the poll results. The American people are beginning not to buy it.

Now, we could even try to go to the second definition of what a crisis is, a crucial stage or turning point in the course of something. There is no crucial stage or turning point that needs to happen here. We are not on a brink here that we have got to change something immediately. There is no crisis here. And as the gentleman from Florida (Mr. MEEK) stated very eloquently, there are a number of issues that I think we need to deal with.

And there was one other thing, and we are kind of moving things around a little bit here, that I want to share just briefly.

Mr. MEEK of Florida. I would say to the gentleman from Ohio (Mr. RYAN) just briefly, but before the gentleman moves from that chart, I think I know the reason why some in Washington want to try to fool the American public that there is a crisis, because we have individuals that are on Wall Street that have guaranteed, if the President has his way, if the majority side leadership has their way, that they will receive over the next 20 years $944 billion worth of the taxpayers’ money in risky investment, Social Security. So I think that is the crisis of trying to close the deal before the term runs out on the present President and the term may run out on the present leadership.

But I can tell the gentleman from Ohio (Mr. RYAN), I want to talk, when the gentleman is finished, when the gentleman makes the point that the gentleman is about to make, I want to turn to the Members, if we had the opportunity to lead, not necessarily you and me, but the Democratic side, working with some of our Republican friends that understand the importance of making sure that we work for all Americans and making sure that Social Security is strengthened.

Mr. RYAN of Ohio. Well, I thank the gentleman. And after this we are going to move on to what we believe that the real issues are that need to be dealt with immediately, issues that we think are causing unstable situations, issues that we think are providing extreme danger or extreme difficulty for families here and issues, quite frankly, that we think the country is at a crucial stage or at a turning point on. We want to talk about what we believe those issues really are.

Now, last week we asked Americans who were watching to write in and to e-mail us with what they thought were the immediate issues that needed to be dealt with, what was the crisis that they believed the country needed to address. And I am just going to share a couple of these because we want to get into some other issues. Mrs. Richard from Kansas said that she had been watching and listening to our program on C-SPAN. Our country now has so many needs. And we asked her to give them to us and she said, I will write them to you.

To me, the number one need is to get out of Iraq. Stop losing lives and spending money. That may be a crisis. Probably is. After that, health care, fixing our national deficit, which we are definitely going to get into tonight, and many more things that need to be fixed. She appreciates the concern.

Christie Fox, from the gentleman’s great State of Florida, she is a second grade teacher. Mr. RYAN, you asked for our comments or suggestions on what we think is important to America. Safety, the environment, the oceans heating and rising, need for solar power, recycling, windmills, fuel efficient vehicles, terrorism, that is a major issue that we are not really dealing with here, and to keep God in America. Great issues that we think may be or will have more of a profound effect if we address them immediately.

So, again, we ask the citizens who are out there tonight to give us an email, what you believe to be your crisis of choice, that is, something that we need to deal with immediately in the United States of America. Send us something.

That is the number 30, the word “something,” and then dems, D-E-M-S @mail.house.gov. Mr. Speaker, I think, because, quite frankly, we do not believe that Social Security that is solvent for the next 45 years and will pay 100 percent of the benefits and then for the next 20-some years and into the future will still provide 80 percent is not a crisis.

Mr. MEEK of Florida. Mr. Speaker, I think it is important that we bring about great clarification of our message to make sure that individuals do not get confused on what issue is here. The real issue, I think, the reason why individuals want to, leadership on the majority side and the White House, want to talk about a crisis situation in Social Security is because they do not want to talk about health care. They do not want to talk about the issues that many Americans have to deal with on a day-in-and-day-out basis. I call it drugstore health care; when your child is sick, because you do not have health insurance. Great issue here.

Mr. MEEK of Florida. Florida, she is a second grade teacher. And I would even argue that 80 percent, without doing anything, 45 years from now is not unstable. That is a stable situation. It needs to be dealt with. But extreme danger or difficulty? How could you call from 2005 to the late 2040s extreme danger or difficulty? It does not apply here. And using the word “crisis” is extreme, and it is trying to scare the American public. And you see it in the poll results. The American people are beginning not to buy it.

And I am so glad that House Democrats are committed to taking the bold necessary steps to move us in the right direction of making sure that we do what we are supposed to do for Americans.

In the 108th Congress, we worked very hard with Partnership for America’s Future that reaffirms our commitment in six core areas. And those six areas are, making sure that we have American values, prosperity, national security, fairness, opportunity, community, and also accountability. And I think it is important that we think about that, and that is something that is not happening right now.
Now, one may argue, well, what is stopping you from doing that? I can tell you what is stopping us from doing that, not being in the majority here in the House of Representatives.

And I say to the gentleman from Ohio (Mr. RYAN) that I think what is important is that we have to share with our colleagues and also with the American people, Mr. Speaker, that it is important that we hold the individuals that are sent here to Washington accountable for their actions but also for their inactions. And when we start talking about crisis, look right, but we are really going left. And I think it is important that we point these issues out.

It is important that we take bold steps in expanding affordable health care and the health care coverage, including mental health coverage, making sure that we cut health care costs, increasing biomedical research, and also reducing racial and ethnic disparities, with affordable health care as it relates to coverage for small businesses by creating a new purchasing pool that will allow 50 percent tax credit to help small businesses and self-employed individuals in their health care problems.

That is Democratic legislation that is already filed in this Congress that should move, would move, if we had the Democratic leadership that we talked about early on in this hour. If they were in control, it would not be an issue of saying that is what we would like to do. And I think it is important, it is very important that not only Members of Congress understand our responsibility in standing up to the real needs of Americans that are out there now, but to make sure that we are able to stand up and say that health care is a crisis, the issue of our environment is a crisis, the deficit is a crisis, and not just say it as buzz words or in a snappy, or punch line. Mr. RYAN of Ohio. Mr. Speaker. I had a Social Security town hall meeting last night at Warren G. Harding High School in Warren, Ohio; and we were having a discussion about these kinds of issues. And one of the gentlemen, as we were talking about him as a small business owner, self-employed, he had to pay his own Social Security tax. He had to pay the whole amount, the employer's share and the employee's share. And he was struggling because he had health care issues that he had to deal with. The health care costs were going through the roof. He had two kids in college. And tuition costs in Ohio have doubled over the past few years. And when we get back after the break we are going to get into a little more about the cost of college tuition.

But the point is, the Social Security privatization scheme sounds like a good idea to some employers, because the way that the blueprint has it set up is that the employee will be able to take 4 percent and divert it to an account, and the employer will not have to match that 4 percent; and so it is basically a tax break for the business person, which may be okay for small business folks and help them a great deal.

But what we are saying as Democrats is, why are we not dealing with the real issue of saying that is what we are going through the roof? And if we want to help small business people, then we need to use the Democratic proposal that we have that is going to help small business people contain health care costs and contain tuition costs and give us tax assistance and grants and lower tuition costs with block grants to different universities. We have a plan to do that. And what we are saying is, let us stick together on the greatest social program in the history of mankind, and let us fix these other programs that have been causing a great deal of economic pain to the small businessperson. We want to be there, and we have a plan to do it.

Mr. MEEK of Florida. When you have employment that you have in your community, you have in your community what? A more productive company. And then what do you have then? You have more productive American workers that will be able to compete against other countries that are competing against America.

Before the gentleman from Ohio (Mr. RYAN) goes to the chart, I think it is important we talk about the fact that health care costs, when we start talking about cutting health care costs, we have to look at the issue as it relates to prescription drugs.

Mr. RYAN of Ohio. Absolutely.

Mr. MEEK of Florida. I think it was a blatant opportunity here on this floor by the majority side saying they were carrying out true prescription drug reform and failed to do so by not allowing us to negotiate with drug companies to have lower prices, not only for Medicare and other entitlements, for everyone. And I think it is important that the American people understand that the Democrats have a bill filed right now that will allow Members of Congress to sign it and discharge it out of the committee process and bring it right to the floor. We have had this debate. We can bring it to the floor and let us vote on it.

Mr. MEEK of Florida. But still, if we were in control of this House, if the American people said they were going to allow Democrats to be the majority in this House, we would have the following:

We would have a Social Security debate about strengthening Social Security, not privatizing it. We will have not only a debate but we will have a bipartisan bill to make sure we can combine buying power to take prescription drug costs down for everyday Americans. We would not only have legislation that will be true environmental legislation, but it would be bipartisan legislation because we believe in working together with, at that time if we have a perfect situation, we are in a majority, working with the minority party in doing that.

We would also have a health care plan, a health care plan that is a 6-point plan that would bring about, where the insurance for everyone working Americans, and also allow those Americans between the ages of 55 and 65 to be able to buy into Medicare early so they would have an opportunity to take advantage of good health care at a low cost as they reach their years of the 60s and 70s. So that is so very important.

I am not laying ‘what if,’ but I am saying what could be. And so I am saying this more of a challenge to the Members on the majority side because they do have the power. They have the power to be able to set the agenda and say what will be able to come to the floor. They have the power to be able to say that this is what we are going to work on and this is what we are not going to work on. I think it is important that the American people and I think the Members of this Congress also understand, Mr. Speaker, that the power of the majority sets the agenda and what happens is nothing comes to this floor without the authority of the Republican leadership in this House.

Now, I am going to tell you, because I always, I do not use it as a disclaimer, I am seeing it as a Member of this House and someone that communicates with Members of the majority party, there are a number of Republicans that will go unnamed because of repercussions that want to see that kind of environment return back to the House of Representatives. This is the environment that we had in 1983 when Ronald Reagan and Tip O'Neill brought about the kind of bipartisan partnership we
Mr. RYAN of Ohio. Mr. Speaker, I hope that the gentleman does not leave out what is happening to the American worker and our negative trade balance. If I can say the word China, I would like to say that, because I think it is important that not only Members of Congress understand our responsibility but the American people also understand what is happening right now. It is not on the 6 o’clock news, but if someone is at home right now, take a job where their job went, wondering why the factory, especially in the gentleman’s State of Ohio, the whistle in that factory is no longer blowing when they knock off, like a blue collar worker was before, for the evening, while no lunch box is there, be it a man or woman.

The reason why we are continuing to put forth trade agreements in my State that are putting agriculture industries out of business or having them to give away jobs like the citrus industry, like the sugar industry and the nursery plant industry that is in my county of Miami Dade County that are concerned about these free trade agreements that are taking place.

Now, I voted for some free trade agreements, but I will state that some of those agreements that are coming down the pike are going to hurt the American worker and continue to give away the kind of apple pie that we have been talking about for so many years.

Mr. RYAN of Ohio. Mr. Speaker, I think this is the issue for me, that this is the crisis. This is just the issue that how could we say that a problem 40 years out from now is the crisis when you look at the numbers here. This is the crisis here. This is the manufacturing jobs loss, and I will go through some quick charts here.

Manufacturing jobs lost. In Ohio we lost 216,000. In Florida, the gentleman’s home State, they lost almost 73,000. All the red States here have lost more than 20 percent of jobs in their States: Ohio, Pennsylvania, New York, Michigan, Illinois, all of these. And all through this country, the only two States with any kind of net gain are North Dakota and Nevada. That is the crisis and that is the issue that we need to be dealing with here in the United States.

Mr. MEEK of Florida. Before the gentleman leaves that chart, would he please let the Members know and, Mr. Speaker, we definitely want the American people to know that this information comes from, because I want to make sure we are clear.

Mr. RYAN of Ohio. This is the U.S. Bureau of Labor Statistics, so it is nonpartisan. From January 1998 to February 2005. This is the United States Bureau of Labor Statistics controlled by a Republican, so it is not any lies that we are just trying to tope up propaganda here.

These States that are purple have lost between 15 and 20 percent. The green States have lost between 10 and 15 percent. The yellow States between 5 and 10 percent. We are getting declimated in our manufacturing base, and these are the jobs that pay well. These jobs are going to China. The high-tech jobs are going to India.

Now, another crisis, our overall U.S. trade deficit which led to the enormous job loss right here, overall trade deficit. We are buying $600 billion more worth of products than we are selling. And look at the growth. This is the startling thing. This is not just a kind of a temporary blip in the screen. In 1991 we were a little over $50 billion, or not quite $50 billion; and look at this, the steady growth. And these have been the trade agreements that we have been signing, and especially when we came with China, bang, right down at the bottom, bingo, in 2004 over $600 billion in trade deficit. Of that the main culprit in this whole deal has been with China, another crisis that we need to deal with.

I mean, here is Social Security. The main issue is beyond me. Again, trade deficits from 1991 to 2004. Again, a slow gradual, this is what we call in economic terms, and I am not an economist, this is what you call a trend. This is the thing that is going on in the country and has been for a good many years now, U.S. trade deficit with China over 160-some billion dollars a year. And we can see it just continue to decline. It will probably be worse next year. And when we see the job loss in Ohio, in the Midwest, all over the country except for Nevada and North Dakota, this is what is causing it.

Companies are moving from the United States, not making the investment here in the country, making it in China; and we are getting walloped.

Now, the most important issue as we are running these huge trade deficits and we are national deficits, and let me just show one, before we show that one and then I will let the gentleman talk about the other, not only are we running huge trade deficits; we are also running an annual domestic deficit on our own budget here.

This red line starts with President Johnson where we pretty much were balancing our budgets all the way along, and we pretty much stayed steady up and down throughout the 70s. And into the 80s we got into the pretty high deficit through the Reagan and Bush era. That is the red line coming to about $300 billion in our national deficit. That means the budget money that we spent out of here, we were spending $300 billion more than we were taking in. And then the Clinton era, the balanced budget passed in 1995. Now, one Republican vote, Democrat House, Senate, White House; Al Gore broke the tie in the Senate as Vice President. That led to booming surpluses in the United States. And then when the next administration came in here, we are again with record deficits.

Now, will a real fiscal conservative please stand up, because we do not have anymore here. And this is the kind of deficit that you are passing on to your kids and your grandkids and the scary thing that the gentleman will talk about right now.

Mr. MEEK of Florida. Mr. Speaker, because the gentleman talks about the other, the nonpartisan Congressional Budget Office where the gentleman got this information from, am I right?

Mr. RYAN of Ohio. Absolutely. The source is CBO, the Congressional Budget Office where the gentleman got this information from, am I right?

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you can have, and Mitt Romney was in front of the Committee on Education and the Workforce last week, the Republican governor from Massachusetts, and he said you cannot have a tier two economy and a tier one military. And, unfortunately, we are moving into a tier two economy.

We were talking about the trade deficits and then our national deficit and the debt. The deficit is what we accrue every year. We are $400 billion last year. The debt is the overall debt of the whole two economy, which is almost $8 trillion, but last year was over $400 billion.

Here is the portion of foreign-owned debt in our country that rose to 41 percent under this administration. So this is the bottom line here in the blue. Of all of our debt, that portion is held by domestic interests, from this here, the turquoise, a nice shade of turquoise, I must say.

The next level is the percentage of our marketable U.S. Treasury debt held by foreign interests, and that, as you can see, is foreign owned. Over here on the East Coast, it is 2004. Here we have domestic-held debt up to $2.5 trillion. The rest here in purple was foreign owned.

As we move in 2001 and 2002 and 2003, you can see that the purple gets bigger. It gets up into Maine from the Carolinas. This purple is foreign-held debt. Basically what this chart says, and it is continuing to increase as the years go on. So, these deficits that we had in the last chart, that we have been running as we are borrowing that money; more and more of that money is coming from foreign interests. That is a dangerous situation that we are putting the country in.

As the gentleman from Florida (Mr. MEEK) stated, we are on the Committee on Armed Services. We see this in the committee hearings and with the poppy in Afghanistan. We see this dealing we are in, in their increase in military spending and the issue of Taiwan, and North Korea is beginning to test nuclear weapons.

The more power we cede to foreign interests dealing with our own personal monetary situation, the more dangerous a situation we are going to be in. It is a bad political move, it is a bad economic move, and it threatens our country as well.

Mr. MEEK of Florida. Mr. Speaker, as I look at that printed material that I have before me, I cannot help but say this maybe is at the crisis level. Maybe what the gentleman just pointed out, maybe the fact that we have the highest deficit in the history of the Republic, maybe because we have a number of Americans that are still cutting pills in half after we, the Congress, or the majority side, has said we have done all that we can do. Maybe that is the crisis.

Maybe it is important to let not only the majority side know, but also the American people know that it is about who is running this House and who is not raising an objection to what has happened already, let alone what is going to continue to happen. If left up to the mechanics of the majority right now, 41 percent will be the early years of foreign countries buying our debt.

Mr. Speaker, it may very well go to 55 percent where people do not hold us accountable for the decisions we are making, or the decisions we are not making. I think it is important, and we have to talk a little bit about extreme measures in the Congress.

We know there are a number of issues that have come before us, and the American people are saying, when are you going to do something about the problems that we talk about every day? However, we spend more time in this Congress, especially in this House, getting involved in personal matters of families, taking the rules like the other side has attempted to do, which I understand some sort of deal has been worked out now on the other side of the aisle, to doom filibuster, the other body. It is unfortunate we have to go to these extreme measures to threaten our way of democracy before we start to try to bring the best out of many Members of Congress.

I am concerned when the majority side in the 108th Congress made it illegal, prohibited the Medicare powers that be within the Federal Government to negotiate with drug companies for lower prices, we could not address it and left it as a gray area for the administrators to say, maybe we can do something. But so indebted to big pharmaceutical companies, they prohibited it from happening.

That means if the administration said, yes, we can bring diabetes or heart medication down $15 if we were to use our buying power with the drug companies. If you do it, you are not only making a career decision; it has been proven in Europe.

I am so glad that so many of us on this side of the aisle, I mean record numbers, voted against that prescription drug scheme, because it is not providing what the American people were told it would provide. AARP, along with others, understand that now and that is why they are fighting to bring those prices down.

Let me tell Members something. Being from Florida, prescription drug costs are very important issue. Being a middle-aged person, or heading to middle age, this is an important issue to my constituents.

Mr. Speaker, I have said this before: We were not elected to have better health care than our constituents. I did not run into anyone at the polling place at 7 a.m. who walked up to me and said, ‘I am voting to make sure you and your family have better health care than I have. I cannot wait to go in there and vote for you so you can be better off than I am.’

Mr. Speaker, they elected us to come to this House and fight on their behalf to make sure that that individual voter and their families and future generations have better opportunities than what they have. We are not doing that now.

If we were in control, because I want to make sure that we really emphasize, if we were in control, that security, that again I will say it, and I said it earlier in this hour, we would not be having a debate on privatization because privatization is bad. Individuals lose benefits under the privatization that the President has put forth, if you are in the plan or not. That is the reason why the President has lower approval ratings as it relates to his Social Security privatization scheme. I would be worried out of my mind if it was the other way around, but people are getting it.

I can tell you another thing, we would not be having a discussion about why 46 million American families that is about the issue of responsibility and care because this House would be moving in that direction to provide the health care that I talked about in our six-point plan, and also our partnership with America, which is a real plan that has accountability that would actually follow-through. It would not be a discussion, to point out the issue of the deficit and the fact that every American at birth, when we started this hour, at birth already owed the Federal Government $30,000, and it has gone up since we have been here on this floor. It would not be a debate because we would be doing something about it.

We understand if we are going to do something in this Congress, we are going to start a new program, we are going to point out how we are going to pay for it, and that is not what the majority side is doing now.

The last point, because I can go on about the issue of responsibility and accountability, there would not be a what-if discussion as it relates to how we conduct business in this House and the real issues that are facing American families, programs that are working, cut out the devolution of taxation to local governments and also to our State governments. There would not be a crisis as it relates to Medicaid and States ever running deficits in the States due to the fact that they have to balance their budget. Unlike our Congress, they have to balance their budgets on the backs of cutting programs that are helping so many young people stay out of trouble.

It would not be a what-if discussion; it would actually be reality. And the good thing that I am excited about, because of the leadership we have, the Democratic Caucus, it would be bipartisan. That is something that every one of us want to take the politics out of doing business here in Washington, D.C.

That is the reason why our work is so important, making sure we come to this floor week after week, and letting it be known that we are doing all we can in the capacity that we are serving in to not only let the Members of Congress know about responsibilities and
what we can do versus what we cannot do, but also letting the American people know what is happening here as it relates to individuals taking leadership positions, wanting to take action, and those that do not want to take leadership positions and do not take action. That is the real issue here.

That is the reason why if there is a Republican, Independent, Democrat, Green Party, what have you, these issues get those individuals together because it is talking about real-life issues. Information that we are providing here, this is not something we were in the back of the room saying, let us use that number, it looks good. It is bipartisan Congressional Budget Office information. This is information from outside sources that have a credible way of receiving their information, have credibility in the United States of America.

So I think it is important for us to not only challenge the majority side because they do what is good. I believe they are good at that. Challenge the majority side, but also let the American people know if we had the opportunity to lead this House what this Congress could be and what it needs to be.

Mr. Speaker, I said to the gentleman from Ohio (Mr. Ryan).

Mr. RYAN of Ohio. Mr. Speaker, we have a plan. We know what could fix the problem. The American people understand what is going on right now. If we review poll results, this Chamber is not the most popular institution in the country. I think there is a 33, 34 percent approval rating for the Congress. I think some of the issues that the gentleman touched on are why that kind of sense around America is what it is.

I want to share one final chart here that we have. The gentleman from Florida (Mr. MEEK) mentioned the $7.7 trillion debt and the $26,000 that everybody owes, and the general theme tonight is what are the real crises in the country. We explained that Social Security is solvent for another 45 years, and then we got into our over $160 billion trade deficit with China, a $400 billion deficit here at home. We are spending more money, we are borrowing it from the Chinese. We are not participating in a sound fiscal policy.

One final thing that kind of sums everything up, if Members look at it, and this is in trillions of dollars here, how much tax cuts for primarily millionaires are taking away from funding priorities that we have in this country. If we make the tax cuts permanent over the next 10 years, it will cost $1.8 trillion. The tax cuts for the top 1 percent, people making 4, 5, 6, 7, 8, 9, over a million or it most above half a million dollars a year, will be $800 billion we are going to spend or not take in because of tax cuts primarily for the top 1 percent.

Look at what we are spending on veterans. This is $800 billion, this is $3 billion, over the next 10 years. So we are basically saying in this country that our priority is the top 1 percent, not the veterans of the United States of America. The other side would say, well, we have increased spending for veterans. The answer to that is, yes, but thousands and thousands of more veterans are beginning to enter the VA system now. Then they are losing their pensions; they are losing their health care in places like Ohio. When I was on the Committee on Veterans Affairs last session, Secretary Principi was in front of us and I asked him, is the reason more people are going into the health care system in places like Ohio, West Virginia, Pennsylvania because of the massive job loss and companies going bankrupt? And he said, yes. We have people in Ohio that were veterans, that never accessed the VA system, who lost their jobs, lost their pensions, lost their health care, they went into nursing homes being closed down and nursing homes being closed down, is it time to reevaluate what the policy is. We could go on and on and on with this on what we are going to spend on education, health care, which you so eloquently mentioned these great issues that we need to invest in.

I want to make a point. We are not saying that some of these programs do not need reform. We are not saying that at all. These programs do need reform. We need to move into more preventative health care than we are doing now. You talked about CVS and Rite Aid and the emergency room. Why would we want people to go if they were sick into an emergency room? Because we are saying that, anyway. The hospitals are a charity aid that comes out of Federal money. Why would we wait until someone got pneumonia and went to the emergency room when we could have a clinic that provided them with basic antibiotics that would allow them to address their issue when they had a cold? But we wait. So the system does need reform.

We need to put more emphasis on early childhood education. There is no question about it. I did a study in Ohio, and I mentioned it several times here before. The University of Akron did this study. For every dollar that the State of Ohio spent on higher education, the State received $2 back in tax money because you are educating someone and they are going to be worth more, they are going to create more value, and they are going to pay more in taxes over the long run. These systems need reform to where we are making good investments and saving them taxpayer money in the long run. These tax cuts are not having the economic impact they thought they would have. We have given trillions of dollars in tax cuts and the whole reason was to stimulate the economy. We are still in a recession or just modest, very modest, economic growth, if that. Some signs are saying we are going to go back into a recession. This is not having the impact, because these people that make this money are not investing it in the United States. I will pull out the China graphs again if you want me to, but these people are taking their tax cuts and investing it in Asia. The economic impact again is not being felt in the United States. It is being felt abroad. The old theory that tax cuts will stimulate your national economy no longer work. It is an outdated method; it is voodoo economics as President Bush, I, said; and it is not working here today.

Mr. MEEK of Florida. Mr. Speaker, the gentleman from Ohio did make the point of what is actually happening here, and I think it is important that we highlight that. We are going to close out. I see my Republican colleagues that are here. We got a little excited in talking about some of these issues, but I want to make sure that when you mentioned the veterans, like I said before and I have said, like three times during this Special Order, we do have some friends on the Republican side of the aisle that see it and get it. Okay? But this is what happens to them when they do the right thing and this is from Fox News.

Representative CHRIS SMITH, former chairman of the Committee on Veterans Affairs, passed a Veterans Administration budget that put him on the opposite side of his leadership on the Republican side. Actually doing what he should do as a chairman for the veterans. What happened? Did he get a parade? Did he get a commendation from the President in their caucus? No. He got fired. He was ripped of his chairmanship. And so when we start talking about what we want and what we actually get, that is a perfect example.

We had nothing to do with him being removed. NANCY PELOSI, Democratic leader, had nothing to do with him being removed. The Republican leadership removed him. It is very unfortunate that that took place. I would say this, it is important that we come to this floor with solutions and not just problems. I am glad that we shared with the American people and also Members of this House what we have in store for them. Before we close, does the gentleman want to give this e-mail out quickly?

Mr. RYAN of Ohio. Again, send us an e-mail, tell us what you believe the real crises are in the country, 3somethingdems@mail.house.gov, and possibly we will read your e-mail next week.

Mr. MEEK of Florida. Mr. Speaker. We appreciate the time here on floor. We would like to thank the Democratic leader for allowing us to have this time on the Democratic side.
METHAMPHETAMINE

The SPEAKER pro tempore (Mr. DANIEL E. LIEBERMAN of California). Under the Speaker's announced policy of January 4, 2005, the gentleman from Nebraska (Mr. TERRY) is recognized for 60 minutes.

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

Mr. Speaker, the subject of my Special Order this hour is how meth is ravaging our communities in the United States. Yet in our budget, in our appropriations, it is called on to eliminate what are called Byrne grants and the HIDTA program reduced by 56 percent.

Let us talk a little bit about what meth does. I have a picture here from the Des Moines Register of a 13-year-old Iowa girl who is a very pretty little girl. Unfortunately, she became hooked on meth. This is the before. This is within a year later. It is kind of a grainy picture, but you can see a stark difference. Unfortunately, even though her mother tried rescuing her from this life-style, this little girl committed suicide. Meth is just an incredibly difficult drug to try and break free from.

In my home State, Duaine Bullock, the captain of a narcotics unit in Lincoln that the gentleman from Nebraska (Mr. FORTENBERRY) represents, gave a sobering assessment of the growing meth problem in Nebraska and just said pointblank, we have got a gigantic problem. He is right on the mark. According to Nebraska Attorney General John Bruning, 60 percent of the inmates in Nebraska jails have a problem with meth. The number of people in Nebraska jails for possessing, selling, or manufacturing meth has more than doubled since 1999.

When we talk about this fight against meth in our communities, the front line of this war, of our war on meth and drugs, the fastest growing drug in the Nation, meth has produced a wider and more extensive array of problems than any other narcotic we have ever faced before. It is no longer a local problem.甲 have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my Special Order.

And so it makes no sense to me, Mr. Speaker, that we have a proposal in front of Congress to completely eliminate the Byrne/JAG grants which are the dollars that go to local police departments to help them become prepared and enter into task forces all the way up to the Federal level. What we are seeing is a system of centralization of our efforts on drugs. When our front line warriors to the Nation's capital. While I certainly can maybe not respect, but at least understand, why a drug czar, a department, would want to consolidate its own power, I think is doing it against the best interests of this Nation.

Mr. Speaker, I would like to introduce another gentleman from Nebraska (Mr. OSBORNE). Frankly, he has been on the front lines bringing this issue to the attention of just about anyone that will listen over the last 3 years. It is my pleasure to introduce my friend and colleague from the Third District of Nebraska.

Mr. OSBORNE. I certainly thank the gentleman for yielding. Obviously, I have the wonderful privilege of what a politician can have. I have laryngitis. I am playing hurt tonight. This is an all-Nebraska deal, it looks like. I really appreciate the gentleman from Nebraska (Mr. TERRY) organizing this. This is a very important issue half the States at the present time have a serious meth problem, but the ones that do not have it are going to have it. We think the whole country needs to be aware of this.

I would just like to provide a little background here. Methamphetamines first came into prominence during World War II. Quite often the Japanese kamikaze pilots were given meth. It gets you in such a euphoric state that you will take off in an airplane with not enough gas to return and think you are still going to make it somehow. It obviously has a powerful pull. It is the most highly addictive drug that is known to man. In many cases, one exposure can render the victim permanently addicted. Sometimes people take methamphetamine without even knowing what it is they are getting into. It provides a high that will last from 6 to 8 hours. It dips a huge amount of dopamine which makes you feel good and, of course, eventually the next time it takes a little bit more and a little bit more and so on. It provides increased energy. Many working mothers, people working two jobs will eventually get drawn into meth. Truck drivers that want to stay out on the road for 48 to 72 hours. Some people on meth will stay awake for a week, sometimes even 2 weeks.

It does provide some energy. It also will provide the ability to lose weight, which is very attractive. On top of that, it is relatively cheap. In any place where you have a problem with cocaine or with heroin, meth will fix the problem, because it is cheaper. It is powerful and almost without exception when meth comes in, the other things begin to decrease but the meth problem is so much worse that obviously the community is much worse off.

Whatever goes up must come down. I guess that is a law of physics, and so the accompanying emotions to meth abuse are anxiety, depression, hallucinations. Sometimes it is psychotic behavior. Violent behavior is often a side effect. Most meth addicts have what is known as crank bugs. They have the feeling that there is something crawling under their skin, and so they try to pull them out. We could have shown you some very graphic pictures tonight of people who have tremendous lesions on their skin. Maybe the gentleman from Nebraska (Mr. TERRY) has some of these.

Methamphetamine abuse always causes brain damage. Every time it destroys brain cells. A young person, maybe 18, 19 years old, who has been on meth for a year, will have a brain scan that will look almost identical to an 80-year-old Alzheimer's. You cannot distinguish the two. There are so many brain lesions, so much damage to the brain. It is very common, obviously, in rural areas because if you are going to manufacture methamphetamine, the odor is very pungent and so people seek out abandoned farmsteads. Sometimes they have mobile labs where they make it in the back of a van or something like that, but they usually like to stay out away from people.

The ingredients in methamphetamine are somewhat startling and a little bit bizarre. Pseudoephedrine is, of course, the one ingredient that they have to have. In addition, oftentimes they use lithium batteries, drain cleaner, starter fluid, anhydrous ammonia, and iodine. So it is a tremendously toxic brew that is developed; and as a result, it costs about $5,000 or $6,000 to clean up a meth lab. It is very expensive. In some parts of the central United States, I believe Kansas, about 1,500 meth labs year; Missouri, around 2,000. So that is about $10 million just to clean up the meth labs alone. And, of course, most of those funds come from the Byrne grants and the HIDTA grants that we were talking about.

If we think about the cost of methamphetamine abuse, in our area most of the child abuse, most of the child neglect, most of the infant death, young people death, foster care is caused by methamphetamine today. So it is a very difficult situation and very costly.

The gentleman from Nebraska (Mr. TERRY) has already mentioned the Federal prison cells and the jail cells. So the last comment I will have today is simply this, that diverting money by cutting the Byrne grants. We are not saving money by cutting HIDTA because the average meth addict in Nebraska commits 60 crimes a year. So if we have 10 meth addicts in a community, that is 600.

The line of first defense is those law enforcement officers that the gentleman from Nebraska (Mr. TERRY)
showed. And these are the people who rely almost exclusively on the Byrne grants and on the HIDTA grants, the HIDTA grants are high-intensity drug traffic grants, and we have a huge amount of methamphetamine coming up from the southwest part of the United States, especially from Mexico, and there is a problem in Nebraska on Interstate 80. And the only way to intercept that and the only way to handle those drugs is with HIDTA. So we would urge Congress, other Members in this body, to support our effort to get those funds.

And I would again like to thank the gentleman from Nebraska (Mr. TERRY) and the gentleman from Nebraska (Mr. FORTENBERRY), who will speak shortly, for their efforts in this regard. We have talked to the appropriators, and we are approaching the Speaker. We have talked to the appropriators, and we are making every effort that we can.

I thank the gentleman for yielding to me.

Mr. TERRY. Mr. Speaker, I do appreciate the gentleman’s time in playing hurt. I am sure there have been times when he was coaching that he encouraged people with sore throats to get out and take one for the team; so I appreciate that.

The gentleman from Nebraska (Mr. OSBORNE) raised several good points that I will take some time on. He talked about some of the rather toxic ingredients. In fact, where I live in Valley, Nebraska, at least for the next day or two before we moved, the Saturday night before last there was a meth bust just about a half mile outside of town, and it was rather interesting in driving by and seeing the number of fire trucks and Hazmat units that are there. And what people do not understand, although the gentleman from Nebraska (Mr. OSBORNE) outlined the recipe in some of the ingredients, including bleach and anhydrous ammonia and other ingredients, it is highly toxic but it is not easy to make, and the reason why it is incredible to me that during some of these meth police busts they raid these homes and there are toddlers in these homes.

So it has an impact not only on our police departments but our fire departments who have to coordinate these drug busts where they find these labs. And as the gentleman from Nebraska (Mr. OSBORNE) also mentioned, we can find them just about anywhere. In fact, in a county in southwestern Nebraska just a few months ago, they made a drug bust of a mobile lab literally in the trunk of a car at a department store. So there are people that will build them in any place they can.

As I introduce the gentleman from Lincoln, Nebraska, I want to explain to anyone who is listening here tonight when we talk about the HIDTA grant, it is an acronym for high-intensity drug trafficking area. That is the grant that comes to local police departments to try to handle this situation. Obviously, as we talked about the very volatile toxic explosive nature of a meth lab, since it is the local police departments that are on the front line that will be reading that particular house, that will be making the arrest, they want to make sure that they understand the totality of the circumstances they are engaging in and how to protect themselves.

Also, as the gentleman from Nebraska (Mr. OSBORNE) pointed out, it is such an intense high under meth that these folks literally do not know or understand what they are doing, and they have a high propensity for violence. And yet these folks look completely normal for that particular instance that a policeman could be walking by. So they have to be trained in the subtleties of what to look for to see or determine if someone is under the influence of meth and in understanding that even though that person may appear calm for that particular instant in time that person becoming violent is just inherent to the nature of the drug. So they have to train them how to handle these violent situations with a person under the influence.

Also, part of the HIDTA grant trains them how to work with other law enforcement agencies. In fact, HIDTA is set up into territories where they can work across jurisdictions, whether it is Douglas County and Lancaster County official working together or our local police departments or even into Iowa, the gentleman from Iowa’s (Mr. KING) district, who wanted to be with us here tonight but, like our colleague from the third district, is suffering from the same ailment. So it allows them to learn how to put the task forces together and share each other’s talents and resources.

With that, so he can get on with his evening, let me introduce the gentleman from the First District of Nebraska in his first year here but none-theless is jumping right into the issues here. And the Second District of Nebraska the most and the deepest. So I appreciate his instantly getting involved in the meth issue of Nebraska.

Therefore, I yield to the gentleman from the First District of Nebraska (Mr. FORTENBERRY).

Mr. FORTENBERRY. Mr. Speaker, I thank the honorable gentleman from the second district for bringing attention to the severity of this problem in our State and throughout many parts of America.

Mr. Speaker, let me tell the Members when I am at home with local law enforcement, I ask a simple question: What is going on, sheriff? And nearly every time the answer is the same, a single word, “meth.” And methamphetamine, commonly known as meth, as we have discussed, is a potent and highly addictive stimulant; and it is taking a terrible human toll across rural America. In fact, my hometown sheriff, Terry Wagner, recently reported to me that they had been addicted to meth for 9 years, and it is this prolonged exposure to these toxic chemicals that has caused such severe brain damage that it has given this young man an irreversibly wasted brain of an advanced Alzheimer’s patient.

In Butler County, Sheriff Mark Heckler estimated that 90 percent of the cases he sees in jail have been involved with meth either as dealers or users or cooks.

Mr. TERRY. Mr. Speaker, reclaiming my time, I had read from our State Attorney General Jon Bruning, who is doing a fantastic job on, in addition, 60 people. But I did too have a local law enforcement officer that suggested it is higher than that, at least when we add the totality. He said, first of all, there are many of the folks in our State prison that are there because they are involved with meth; that they are dealing, cooking, distributing; or that they committed a crime while high on meth or, getting up to about that 90 percent figure, they are out burglarizing, robbing, plundering to try to make money to buy meth to get it.

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

Mr. TERRY. I yield to the gentleman from Nebraska.

Mr. FORTENBERRY. Mr. Speaker, their ramifications are certainly widespread. Butler County, as I just mentioned, is a serene place, a farming community, a wonderful place to raise a family. And yet this shocking statistic of 90 percent is very real and disturbing. The sheriff also reported the same problem that the gentleman from Nebraska (Mr. OSBORNE) mentioned, that he finds small portable labs for production even in the back of cars. So meth is a particular threat to our rural communities, and the gentleman from Nebraska is just inherent to the nature of the drug. So they have to train them how to handle these violent situations with a person under the influence.

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country, and I think there are three approaches that do deserve our attention. First, State efforts to control the spread by controlling the access to its component chemicals, I believe, should be applauded, and smart controls on the sale of cold medicines are also a reasonable idea that may be considered at the Federal level. Second, and the gentleman has mentioned this additionally, the antidrug task force has maximized the effectiveness of law enforcement, particularly with overlapping jurisdictions. And I believe lawmakers, as he does, in Washington must listen to those who are on the front lines in the battle against meth and give them the tools they need to protect our communities this week, this month, this year.

Third, we must also recognize the national scope of the meth problem. It is estimated that 83 percent of the meth in Nebraska comes from large out-of-state sources, California and Mexico. These superlabs do not get their chemicals from the local drug store, but depend on multi-state and multi-national suppliers. This is why we also need a focused and multi-national, multi-jurisdictional, strategy to stamp out meth. And I believe it is the job of the Federal Government to keep meth and its chemical precursors from crossing State borders. Existing regulations on the sale of meth chemicals should be enforced; and the development, again, of alternative compounds in cold medicines could also be determined and encouraged.

Mr. Speaker, finally, let me add that meth is clearly addictive and deadly; and I urge all to avoid it. There is no future in meth.

And again I want to thank the gentleman from the Second District of Nebraska for his willingness to spend this event in Nebraska. It is a very difficult issue for our State, but a difficult issue as well for many other areas that are facing this widespread problem.

Mr. TERRY. Mr. Speaker, reclaiming my time, I think the gentleman for his efforts in this.

I too have a police and sheriff task force like he has put together; and it is amazing, just 2 years ago when we met, asking what the most significant issue was facing them on a daily basis or what some of the trends are. They said, well, definitely meth. But we are not necessarily seeing it in the inner city of Omaha, the gangs there that are still running the traditional drugs of cocaine, crack, and marijuana.

Mostly what we are seeing is they were telling me 2 years ago is that the meth is more of a rural issue, but it is starting to come in through the suburbs and they are seeing a great deal of the problems as we had just mentioned, the crime that is associated with the addiction, whether it is crimes committed by high or crimes committed to get high.

When I met with them probably about 9 or 10 months ago again I asked the same question. They said the drugs, the gangs are running are almost exclusively meth now. They are coming from two different directions. We still have the rural issue, where some of the ingredients are so readily available and you can go to your corner drugstore and get them, or out of Sudafed and other materials to make it, but the gentleman mentioned that that is incredibly important in our fight here.

Meth has become basically a war on two fronts. You have got the labs that are being operated by individuals, because they are so easy to put together, the ingredients are very accessible, although in Nebraska our State legislature, fortunately, is dealing with it, and probably by the end of this week we will have Sudafed behind the counter. It is too bad we have to do that to our local retailers. But that is one border.

California what we have tried to fight is the pop-up labs, particularly in rural areas, or mobile labs. But now you have the super labs in Mexico that are running the drugs up, and it is the same pattern we have seen with cocaine others. It comes from Central America, international, and the other gang headquarters and through their distribution schemes throughout the rest of the United States. That is where we are seeing it come into Nebraska now, and that is why it is becoming quite well. Now it has just infiltrated every part of our community in the last few years.

The gentleman mentioned something else, the brain damage that is caused from this. You begin that deterioration of the brain cells, as the gentleman from Nebraska (Mr. OSBORNE) mentioned, with the dopamine, the rush that gets you. It is such an intense rush of that chemical that it literally fries the synapses and cannot be restored. You are frying your brain. Those cannot be absorbed.

The first area that goes is your ability to make decisions. That is the first part of the brain that is affected by meth. That is why we see an incredible tolerance to the drug. You start craving it and craving it. The Catholic Charities in Nebraska, when I toured them about 3 years ago, it was all alcohol and some cocaine. Now it is almost exclusively, 90 to 95 percent, meth cases that we have now. They told me when I toured a few months ago they cannot cure them. Even those that have only smoked or ingested or injected or however they used it a few times, it has done enough damage to the decision-making part of your brain that you cannot reason; you cannot say this is bad for me, so I am going to quit. You just lost that ability. So you have a drug that forces you, you should not say forces you, but you have lost that ability to say ‘no’ to it anymore. This is what happens. This poor little girl was 13-years-old. The gentleman has a daughter that is only a couple years younger than her and I have a son a couple years younger. I think of the gentleman’s daughter and my son as just little kids, but yet they are being exposed to this.

Mr. Speaker, getting back to cutting the Byrne grants and HIDTA, this statistic shows how our local law enforcement officers working in task forces with the Federal agencies have been able every year from 1999 to 2003 to steadily discover and demolish a vast number of meth labs as we see here, even though this is not full reporting, it is going to be pretty close, in 2004 a slight drop.

I think the slight drop can be accounted for in two ways: Number one, I would say that the Byrne funding was working and helping our local law enforcement find those labs, but also then as I mentioned with the gentleman from Nebraska (Mr. FORTENBERRY), we are seeing now this National, in drug trade like cocaine, where it is imported through Mexico into the major cities and then distributed through the gang distribution system.

Now, let me get to a couple of final points here. In the White House’s fiscal 2006 budget that was delivered this year, it requested to eliminate the Byrne Justice Assistance Grants Program, which provided $634 million to law enforcement agencies nationwide, including almost $2.2 million for Nebraska.

The Nebraska State Patrol estimates that nine of eleven State antidrug task forces that were created with this Byrne grant funding would have to be dismantled. The White House’s budget also recommends reducing the HIDTA program by 56 percent. Again, those are the multi-State and local drug trafficking meth training programs. For Nebraska, ours is located in the Kansas City region.

The Byrne and the HIDTA programs are the primary tools through which the Federal Government integrates State and local efforts into the national drug control strategy. Tom Constantine, a former head of the Drug Enforcement Agency, recently testified to Congress that he could not recall a single case during his tenure that did not begin as a referral from State and local law enforcement, including many through Byrne and HIDTA task forces. So when we talk about the centralization, pulling the power from the local enforcement agencies to the Federal Government, you are talking about really emasculating our drug enforcement policy.

Tom Constantine said every one of their referrals started at the local level.

There is a clear link between drugs and violence that I think we have covered fully here tonight, and these Byrne grants are providing cities and counties with the resources that are necessary to share the information and dismantle regional drug distribution rings. And before Byrne and HIDTA, by the way, when our local police members were out on their own, they did

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not have the power to work with the Federal agencies and task forces to take the meth and trace it back to their origination and be able to dismantle these incredible drug rings.

Mr. Speaker, I am not here to prolong this tonight with a couple of somewhat lengthy, but I will read fast, the works of some of our local police officers. I will start with Police Chief Melvin Griggs in Gering, Nebraska. He said: “I am in the middle of a city of 4,000 people. We are bordered by a town of 13,000. In 1989, the increase in the cocaine drug traffic prompted us to start a drug task force. The wealth of the people have lowered the prices, to chase property, semi-trucks and farms. They were becoming very powerful. They were also starting to challenge each other for control of the drug trade.

“One family we put away caused a drop of all criminal activity by 33 percent. Within a year, people were already starting to fill the void. But before they could reach the power base, we were able to stop them because of the task force.

“Meth replaced cocaine. I have lived in this area for 60 years. We did not have murders, and now we have several every year. The drug task force also helps investigate violent crime. We have seven agents highly trained. They have been able to solve most of these crimes. If we had ever been able to increase the task force, they may have been able to get some of them. Yet the task force has remained the same.

“It has taken years to develop this team, to develop the cooperation and expertise. Taking away the funding to keep it going will defeat the progress in a matter of months. The dealers will again gain strength, and by the time our leaders realize the mistake they have made by taking these funds, many communities will have developed catastrophic problems when the leaders try to return the funds. It will take years to develop the level of response we now have, and we may never get it, as the problem may well become beyond our reach.

“I have talked to other police chiefs, and we are not the only community facing this problem. Maybe we have not been vocal enough. We have seen this every day, it is in all of our newspapers, it is on CNN. It is hard for us to believe that anyone cannot understand this problem. It is hard for us to believe that they really plan on a significant reduction in funding. It is hard for us to believe that whoever wrote this article on task forces being ineffective has any idea what a task force does. I hope reason prevails. Repealing this funding is a serious mistake.

“Another Nebraska police chief, Stephen Sunday of David City, heads up a 12 county, 28 agency multi-jurisdictional drug task force funded with Byrne dollars. He told me, again it is a rather lengthy quote, ‘Those grant dollars are not to be trifled with, and I must say that only way the task force was able to form as a group. In South-Central Nebraska there are nothing but small, rural law enforcement agencies that cannot afford to deal with drug investigations to the degree that we are able to do with Federal grant funding.

“Our primary goal is to investigate the individuals who are dealing drugs in our communities. The drug of choice is meth, and I are here to tell you that meth is a killer, a killer of families, of lives and of health. Health costs for dealing with meth users is terrific. Families cannot afford it.

“The drug task forces are the only effective means of going after the drug dealers. On our own, we cannot handle it. The first problem is that most of the leaders in Nebraska do not know all of the law enforcement officers by name and know that we are spread thin. Working with undercover investigators, our task force is able to get next to the drug dealers, but it takes money to have your own separate, dedicated drug investigators.

“By banding together with the Federal Government through Federal dollar grants we can fight the drug dealers. The task forces share intelligence information, which did not happen prior to the creation of Nebraska’s drug task forces.

“The intelligence information is so important in that if the drug task forces are shut down due to lack of Federal funding, then we will be in serious trouble. If the drug dealers find out that the government is cutting off grant funding and as a result the task force orwhatever, they will be holding a big party to rejoice at this news. If Federal funding is taken away, the drug task forces in the State of Nebraska will fold up shop and disappear.

“We cannot fund the task forces by ourselves. If Congress wants to hear an outcry from rural America, take away our task force funding. See what happens. Our Federal elected officials will be eaten alive by the voters. If Congress wants to be progressive and deal with illegal drugs, give us back our funding.

“The Federal Government needs to take care of issues at home more than anywhere else. Public safety needs need to be a high priority. If the drug task force is shut down from a lack of Federal funding, the illegal drug problem in rural America will get out of control and will pay dearly in ruined lives. Don’t take away Federal funding that was coming from the Byrne grant dollars.”

As the gentleman from Nebraska (Mr. Osborne) mentioned in his talk a few days ago myself, the gentleman from Nebraska (Mr. Osborne), the gentleman from California (Mr. Calvert), the gentleman from Indiana (Mr. Souder) and the gentleman from North Carolina (Mr. Cooper) met with the Speaker to express our frustration with any proposed cuts to Byrne grants and HIDTA funding. The Speaker was completely knowledgeable and empathetic with this and promised to help us work with the Speaker. I really appreciate that the leadership in the House of Representatives shares the concern that the speakers did tonight during this special order, as well as the gentleman from California (Mr. Calvert), the gentleman from Indiana (Mr. Souder), the gentleman from North Carolina (Mr. Coble) and the gentleman from Iowa (Mr. King), who could not be here tonight.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(To the request of Mr. Pallone) to revise and extend their remarks and include extraneous material:

Mr. Pallone, for 5 minutes, today.
Mr. DeFazio, for 5 minutes, today.
Mrs. McCarthy, for 5 minutes, today.
Ms. Woolsey, for 5 minutes, today.
Ms. DeGette, for 5 minutes, today.
Mr. Snyder, for 5 minutes, today.
Ms. Inslee, for 5 minutes, today.
Mr. Cleaver, for 5 minutes, today.
Mr. Jones of North Carolina (at the request of Mr. Delay) to revise and extend their remarks and include extraneous material:

Mr. Burton of Indiana, for 5 minutes, May 24, 25, 26, and 27.
Mr. Pois, for 5 minutes, May 24.
Mr. Hostettler, for 5 minutes, May 24.
Mr. Ramstad, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker’s table and, under the rule, referred as follows:

S. Con. Res. 35. 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, to the Committee on International Relations.
The motion was agreed to; accordingly (at 10 o’clock and 30 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, May 24, 2005, at 9 a.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:

2067. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department’s final rule — Winter Pears Grown in Oregon and Washington; Order Amended [Dock No. 04-130-2] received April 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2068. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department’s final rule — Plant Protection Office, Supplemental Fees [Dock Number ST-02-02] (RIN: 0581-AC31) received May 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2069. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department’s final rule — New Growers in California; Increased Assessment Rate [Dock No. FVS-092-1] (RIN: 0581-AE77) received April 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2070. A letter from the Chief, EBT Branch, Department of Agriculture, transmitting the Department’s final rule — Food Stamp Program, Regulatory Review: Standards for Approval and Operation of Food Stamp Electronic Benefit Transfer (EBT) (Amendment No. 394) (RIN: 0581-AE37) received April 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2071. A letter from the Acting Administrator, Rural Utilities Service, Department of Agriculture, transmitting the Department’s final rule — Accounting Requirements for Communications Service Providers (RIN: 0572-AB77) received May 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2072. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department’s final rule — Asian Longhorned Beetle: Addition to Quarantined Areas [Dock No. 04-130-2] received April 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.


2074. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department’s final rule — Introduction of Plants Genetically Engineered for Industrial Commodities [Dock No. 03-038-2] (RIN: 0575-AE89) received May 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2075. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department’s final rule — Karnal Bunt; Compensation for Custom Harvesters in Northern Texas [Dock No. 03-052-3] received May 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.


2077. A letter from the Secretary, Department of Defense, transmitting a letter on the advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

2078. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting the final rule — Defense Acquisition Challenge Program: Fiscal Year 2004; pursuant to 10 U.S.C. 2359h(b)(1); to the Committee on Armed Services.

2079. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting the final rule — Defense Mentor-Protege Program for FY 2004, pursuant to Public Law 101-510, section 831; to the Committee on Armed Services.

2080. A letter from the Assistant Secretary for Reserve Affairs, Department of Defense, transmitting the annual National Guard and Reserve Congressional Report for fiscal year (FY) 2006, pursuant to 10 U.S.C. 1041; to the Committee on Armed Services.

2081. A letter from the Principal Deputy Secretary, Department of Defense, transmitting pursuant to the requirements in House Report 108-553 (Title III, Procurement) accompanying the Department of Defense Appropriations Act for FY 2005 (Pub. L. 108-287), a report outlining the near-term and long-term plans for repair, replacement, and recapitalization of Department of Defense ground force equipment used in Operation Iraqi Freedom and Operation Enduring Freedom; to the Committee on Armed Services.

2082. A letter from the Secretary, Department of Energy, transmitting a draft bill for FY 2006, pursuant to 10541; to the Committee on Armed Services.

2083. A letter from the Secretary, Department of Energy, transmitting the annual report on the impact of the improvements to compensation and benefits made by the Department of Energy Protection Office, Supplemental Fees [Dock No. No. 03-038-2] (RIN: 0575-AE89) received May 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.


2085. A letter from the Principal Deputy Secretary, Department of Energy, transmitting the Agen-cy’s final rule — Approval and Promulgation of Maintenance Plans; Michigan; Southeast Michigan Ozone Maintenance Plan Update to the State Implementation Plan [R05-OAR-2004-MI-0004; FRL-7919-5] received May 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2086. A letter from the Senior Procurement Executive, OCAO, General Services Administration, transmitting the Administration’s final rule — Federal Acquisition Circular 2005-05, April 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2087. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission’s FY 2004 Annual Report, pursuant to 16 U.S.C. 797(c); to the Committee on Energy and Commerce.

2088. A letter from the Fiscal-Associate Secretary, Department of the Treasury, transmitting the annual report to Congress on international anti-terrorist regulations and violations of regulations relating to Treasury auctions and other offerings of securities by Treasury, pursuant to (107 Stat. 2344, 2358- 2359) receiving the Committee on Energy and Commerce.

2089. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agen-cy’s final rule — Waste Management System; Testing and Monitoring Activities; Final Rule: Methods Innovation Rule and SW-866 Fact Sheet (Title IIIB) [RIN: 2050-7916-1] (RIN: 2050-AE41) received May 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.


2092. A letter from the Secretary, Department of Commerce, transmitting the Agen-cy’s final rule — Amendments of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Daytona Beach Shores, Florida) [MB Docket No. 04-240; RM-10843] received May 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2093. A letter from the Senate Procurement Executive, OCAO, General Services Adminis-tration, transmitting the Administration’s final rule — Federal Acquisition Regulation; Technical Amendments [FAC 2006-03; Item III] received April 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2094. A letter from the Secretary, Department of Commerce, transmitting the Agen-cy’s final rule — Federal Acquisition Regulation; Section 52 in the Federal Acquisition Regulation; Reductions for Federal Prison Industries — Requirement for Market Research [FAC 2005-03; FAC Case 2003-023]; Item I (RIN: 9000-6512) received April 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2095. A letter from the Secretary, Department of Commerce, transmitting a six-
month report prepared by the Department of Commerce’s Bureau of Industry and Security on the national emergency declared by Executive Order 13223 of August 17, 2001, and continued by Executive Orders 13233 of August 5, 2003, and August 6, 2004 to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Foreign Expropriation Act of 1979, pursuant to 50 U.S.C. 1641(c) and 50 U.S.C. 1703(c); to the Committee on International Relations.

2006. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting an updated and corrected copy of the Department’s “Country Reports:” pursuant to 22 U.S.C. 22656f; to the Committee on International Relations.

2007. A communication from the President of the United States, transmitting a report on the Open Skies Treaty that provides an analysis of the first year of implementation of the treaty; to the Committee on International Relations.

2009. A communication from the President of the United States, transmitting a supplemental updated report, consistent with the War Powers Resolution, to keep Congress informed about the deployments of U.S. combat-equipped armed forces in support of the global war on terrorism, Kosovo, and Bosnia and Herzegovina, pursuant to Public Law 93-148; (H. Doc. No. 109-30); to the Committee on International Relations and ordered to be printed.

2009. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on activities under the Tropical Forest Conservation Act of 1998, pursuant to Public Law 105-214, section 133; to the Committee on International Relations.

2100. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Secretary’s determination that five countries are not cooperating fully with U.S. antiterrorism efforts: Cuba, Iran, Libya, North Korea, and Syria, pursuant to 22 U.S.C. 2781; to the Committee on International Relations.

2101. A letter from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting the 2003 annual summaries of activities and operations of the Public Integrity Section, Criminal Division, pursuant to 28 U.S.C. 529; to the Committee on the Judiciary.

2102. A letter from the Director, Administrative Office of the U.S. Courts, transmitting the annual report on applications for court orders made to federal and state courts to permit the interception of wire, oral, or electronic communications during calendar year 2004, pursuant to 18 U.S.C. 2515(3); to the Committee on the Judiciary.

2103. A letter from the Secretary, Department of Health and Human Services, transmitting notice that an additional class of Mallinkrodt medical exposure cohort in St. Louis, Missouri, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000; to the Committee on the Judiciary.

2104. A letter from the Secretary, Department of Labor, transmitting the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) Annual Report to Congress for Fiscal Year 2004, pursuant to 38 U.S.C. 4322; to the Committee on Veterans’ Affairs.


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:

[Filed on May 20, 2005]

Mr. SENSENBRNENNER: Committee on the Judiciary. H.R. 792. A bill to amend the Occupational Safety and Health Act of 1970 to provide for the award of attorneys' fees and costs to small employers who prevail in litigation prompted by the issuance of a citation by the Occupational Safety and Health Administration (Rept. 109-93 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. HUNTER: Committee on Armed Services. H.R. 1815. A bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2006, and for other purposes; with amendments (Rept. 109-90). Referred to the Committee of the Whole House on the State of the Union.

[Filed on May 23, 2005]

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. House Resolution 243. Resolution recognizing the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts to promote National Safe Boating Week (Rept. 109-90). Referred to the House Calendar.

Mr. TOM DAVIS of Virginia: Committee on Government Reform. H.R. 2006. A bill to amend title 10, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes; with an amendment (Rept. 109-91). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHLERT: Committee on Science. H.R. 256. A bill to establish an interagency committee to coordinate Federal manufacturing research and development efforts in manufacturing, strengthen existing programs to assist manufacturing innovation and advanced manufacturing research and development programs for small and medium-sized manufacturers, and for other purposes; with an amendment (Rept. 109-92). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRNENNER: Committee on the Judiciary. H.R. 744. A bill to amend title 18, United States Code, to discourage spyware, and for other purposes (Rept. 109-93). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 291. Resolution providing for consideration of the bill (H.R. 1419) to establish authorities for emergency and water development for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109-94). Referred to the House Calendar.

Mr. WALSH: Committee on Appropriations. H.R. 2528. A bill making appropriations for military quality of life functions of the Department of Defense; to the Committee of the Whole House on the State of the Union.

Mr. FOSSELLA: Committee on Ways and Means. H.R. 2530. A bill to provide for the collection and maintenance of human cord blood stem cells for the treatment of patients and research, and to amend the Public Health Service Act to authorize the C.W. Bill Young Cell Transplantation Program; to the Committee on Energy and Commerce.

Mr. FERGUSON (for himself and Mr. TOWNS):

H.R. 2531. A bill to establish a program to transfer surplus computers of Federal agencies to schools and community-based educational organizations, and for other purposes; to the Committee on Government Reform.

Mr. FERGUSON:

H.R. 2532. A bill to extend the suspension of duty on filter blue green photo dye; to the Committee on Ways and Means.

By Mr. FERGUSON:

H.R. 2533. A bill to extend the suspension of duty on ammonium bifluoride; to the Committee on Ways and Means.
By Mr. FERLINGHUYSEN:
H.R. 2536. A bill to extend the suspension of duty on 4-Hexylresorcinol; to the Committee on Ways and Means.

By Mr. FRELINGHUYSEN:
H.R. 2537. A bill to extend the suspension of duty on certain organic pigments and dyes; to the Committee on Ways and Means.

H.R. 2538. A bill to extend the temporary suspension of duty on a certain ultraviolet dye; to the Committee on Ways and Means.

By Mr. HAYWORTH:
H.R. 2540. A bill to extend the temporary suspension of duty on certain cathode-ray tubes; to the Committee on Ways and Means.

By Mr. KING of New York (for himself, Mr. Smith of New Jersey, Mr. Norwood, Mr. Israel, and Mr. Bishop of New York):
H.R. 2541. A bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Institutes of Health regarding qualifying adult stem cell research, and for other purposes; to the Committee on Energy and Commerce.

By Mr. Kuhl of Illinois:
H.R. 2542. A bill to suspend temporarily the duty on low expansion laboratory glass; to the Committee on Ways and Means.

By Mr. LANGEVIN:
H.R. 2544. A bill to extend the temporary suspension of duty on benzoc acid, 2-amino-4-[(2,5-dichlorophenyl)carbonyl]-methyl ester; to the Committee on Ways and Means.

By Mr. LANGEVIN:
H.R. 2545. A bill to suspend temporarily the duty on Acid Blue 80; to the Committee on Ways and Means.

By Mr. LANGEVIN:
H.R. 2546. A bill to extend the temporary suspension of duty on Pigment Red 185; to the Committee on Ways and Means.

By Mr. LANGEVIN:
H.R. 2547. A bill to extend the temporary suspension of duty on Solvent blue 124; to the Committee on Ways and Means.

By Mr. CANDELARIA:
H.R. 2548. A bill to extend temporarily the duty on Pigment Brown 25; to the Committee on Ways and Means.

By Mr. LANGEVIN:
H.R. 2549. A bill to suspend temporarily the duty on Pigment Red 188; to the Committee on Ways and Means.

By Mr. LANGEVIN:
H.R. 2550. A bill to extend the temporary suspension of duty on Pigment Yellow 154; to the Committee on Ways and Means.

By Mr. LANGEVIN:
H.R. 2551. A bill to extend the temporary suspension of duty on Pigment Yellow 175; to the Committee on Ways and Means.

By Mr. LANGEVIN:
H.R. 2552. A bill to suspend temporarily the duty on Pigment Yellow 213; to the Committee on Ways and Means.

By Mr. LANGEVIN:
H.R. 2553. A bill to suspend temporarily the duty on their fresheners with warmer units; to the Committee on Ways and Means.

By Mr. RYAN of Wisconsin:
H.R. 2556. A bill to suspend temporarily the duty on air freshener electric devices; to the Committee on Ways and Means.

By Mr. SHAYS (for himself, Ms. DeLauro, and Mr. Tom Davis of Virginia):
H.R. 2558. A bill to amend title 4 of the United States Code to prohibit the double taxation of telecommuters and others who work at home; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:
H.R. 2559. A bill to provide for the recognition of certain Native communities and the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Resources.
of Michigan, Mr. Shuster, and Mr. Skelton).

H. Con. Res. 163. Concurrent resolution honoring the Sigma Chi Fraternity on the occasion of the 123rd Anniversary, to the Committee on Education and the Workforce. By Mr. DELAHUNT (for himself, Mr. ALLEN, Ms. BORDALLO, Mr. CHRISTENSEN, Mrs. CHRISTENSEN, Mrs. Davis of California, Mr. FARR, Mr. GEJALDA, Mr. HINCHey, Mr. KIND, Mr. GEORGE Miller of California, Ms. NORTON, Mrs. MCCARTHY, Mrs. PALLONE, Mr. OLIVER, Mr. MARKey, Mr. HOLDen, Mr. RAHALL, Mr. SAXton, Mr. SHAYS, Mrs. CAPPS, and Mr. PARKER of Massachusetts).

H. Con. Res. 164. Concurrent resolution expressing the sense of the Congress regarding the policy of the United States at the 57th Annual Meeting of the International Whaling Commission; to the Committee on International Relations.

By Mr. CROWLEY:

H. Res. 292. A resolution commending the United States to the Congress and the Mexican government for their cooperation in safeguarding the national border, 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. Davis of Kentucky.
H.R. 22: Ms. KELPpatrick of Michigan, Mr. CARNAHAN, Mr. LYNCH, Mr. SCHWARZ of Michigan, Ms. SOLIS, and Mr. BACHUS.
H.R. 23: Mr. HUGHes, Mr. WU, and Mr. SIRIHAlo.
H.R. 47: Mrs. EMERSON, Mr. CALVERT, Mr. HAYWORTH, Mr. KUhl of New York, and Mr. PUTNAM.
H.R. 97: Mr. UTpON.
H.R. 115: Mr. HINCHey and Ms. ZOE LOFGREN of California.
H.R. 215: Mr. Davis of Florida.
H.R. 282: Mr. LINDER, Mr. THOMPson of California, Mr. MEKHAN, Mr. HAYWORTH, Ms. FOXX, Mr. SMITH of Texas, Mr. TANNER, Ms. DELALANE, Mr. BERRY, Mrs. MUSOVALE, Mr. WELDON of Pennsylvania, and Mr. ROSS.
H.R. 303: Mr. WYNn, Mr. MEeks of New York, Mr. MEHINDER, Mr. DOGGETT, Ms. MATsU, Mr. HOUTER, Mr. BOHILLA, and Mr. LEVIs.
H.R. 371: Mr. CHANDLER.
H.R. 389: Mr. PASTOR.
H.R. 463: Mr. GUTIERREz.
H.R. 480: Mr. SANDERS.
H.R. 503: Mr. ISRAEL and Mr. MARKey.
H.R. 557: Mr. WHITFIELD and Mr. BARROW.
H.R. 551: Ms. BALDWIN, Ms. BERKLEY, Mr. MEKHAN, and Mr. FASCHELl.
H.R. 562: Mr. BROWn of Ohio and Mr. ROTHMAN.
H.R. 653: Mr. OLIVER.
H.R. 651: Mr. VON HOLLEn.
H.R. 696: Mr. BACHUS.
H.R. 745: Mrs. MYRICK.
H.R. 783: Mr. GONZALEz.
H.R. 801: Mr. BORDALLO.
H.R. 829: Ms. SCHAkOWSKY.
H.R. 865: Mr. MARSHAll.
H.R. 867: Mr. DOGGETT and Mr. WAXMAN.
H.R. 905: Mrs. WILSON of New Mexico and Mr. LEVIn.
H.R. 917: Mr. GOODE.
H.R. 930: Mr. SOUHER, Mr. WELDON of Pennsylvania, Mr. GINGRICH, and Mr. REDd.
H.R. 968: Ms. FOXX, Mr. JOHNson of Illinois, Mr. LANGEVIN, Mrs. MALONEY, Mr. GONZALEz, Mr. PUTNAM, Mr. WELLER, Mr. MARSHAll, Mr. KEN of Connecticut, Mr. STRICKLAND, and Mr. BOHILLa.
H.R. 972: Mr. AKIN.
Total appropriations made in this Act (other than appropriations required to be made by a provision of law) are hereby reduced by $297,460,000.

H.R. 2419
OFFERED BY: MR. SPRATT

AMENDMENT NO. 3: At the end of the bill, add the following new section:

SEC. 503. None of the funds made available by this Act shall be obligated or expended in contravention of the Nuclear Waste Policy Act of 1982.

H.R. 2419
OFFERED BY: MR. STUPAK

AMENDMENT NO. 4: At the end of the bill, add the following new section:

SEC. 503. None of the funds made available by this Act shall be used to accept deliveries of petroleum products to the Strategic Petroleum Reserve.

H.R. 2419
OFFERED BY: MR. STUPAK

AMENDMENT NO. 5: 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 implement a policy, proposed in the Annex V Navigation Programs by the Corps of Engineers, to use or consider the amount of tonnage of goods that pass through a harbor to determine if a harbor is high-use.
The Senate met at 11:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Our guest Chaplain is the Reverend Penelope Swithinbank of The Falls Church at Falls Church, VA.

PRAYER

The guest Chaplain offered the following prayer:

O God, You are the Lord of grace and courage, of wisdom and truth. You give these good gifts to those who call on Your name and You promised to give in abundance when we ask.

We ask that You will give these gifts to the Senators today, that they may be free to think and speak only that which is right and true, without embittering or embarrassing others, that they may be united in knowing Your will and may understand the issues which face them. Give them courage to uphold what is right in Your sight, and integrity in all their words and motives. May their service be for the peace and welfare of all.

We ask these things in the name of Him who is both servant and Lord of all, Jesus Christ. 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.

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 judge for the Fifth Circuit. We have a lineup of speakers throughout the afternoon and likely into the evening. As I have stated previously, if Members want to debate the nomination, we will provide them with that opportunity for debate. We have spent about 26 hours over the course of 3 days on the Owen nomination. On Friday, we asked unanimous consent to have an additional 10 hours before the vote, but there was an objection. Because of that objection, we filed a cloture motion on the nomination, and that vote will occur tomorrow. I will be talking to the Democratic leader as to the exact timing of that cloture vote.

At 5:30 this evening, Senators should anticipate a vote on the motion to instruct the Sergeant at Arms to request the presence of Members. This procedural vote is to ensure that Senators are here for this important debate.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, through the Chair to the distinguished Republican leader, does the leader have an indication of when you may be in a position to indicate how late we would go tonight?

Mr. FRIST. Mr. President, through the Chair, I expect, because of the large amount of interest, that we will stay here until everybody does have that opportunity to speak. We will have the cloture vote, and you and I can discuss shortly the timing. But likely we will do the cloture vote possibly late tomorrow morning. We do want to give people an opportunity. We have spent 26 hours over the course of 3 days, but in all likelihood it will be a very late night tonight.

Mr. REID. And we would continue dividing the time?

Mr. FRIST. I think for planning purposes, that has worked out well for the last 26 hours. If over the course of the morning and afternoon we jointly agree, we can continue that as late as necessary tonight or into the hours of the morning. As I mentioned, debate has been very orderly and very constructive. We will continue with that constructive debate over the course of today and tonight.

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 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.

Mr. FRIST. Mr. President, over the last 3 days, for 26 hours, the Senate has debated a very simple, straightforward principle. Qualified judicial nominees, with the support of the majority of Senators, deserve a fair up-or-down vote on the Senate floor. A thorough debate is an important step in the judicial nominations process. Debate should culminate with a decision, and a decision should be expressed through that up-or-down vote, confirm or reject, yes or no. The Constitution grants the Senate the power to confirm or reject the President’s judicial nominees. In exercising this duty, the Senate traditionally has followed a careful and deliberative process with three key

This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
components: first, we investigate; second, we debate; and third, we decide. We investigate by examining nominees in committee hearings and studying their backgrounds and qualifications. We debate by publicly discussing the nominees in committee and on the floor. We decide through an up-or-down vote. Investigate, debate, decide—that is how the Senate and the judicial nominations process operated for 214 years.

But political, the Senate stopped short of a decision. A minority of Senators began routinely blocking final votes on judicial nominations. As a result, the nominees have been left in limbo. Courthouses sit empty. Justice is delayed. Political rhetoric has escalated, and political civility has suffered. It is time once again to decide.

The moment draws closer when all 100 Senators must decide a basic question of principle—whether to restore the precedent of a fair up-or-down vote for judicial nominees. That is the Senate's decision. That would enshrine a new tyranny of the minority into the Senate rules forever. I favor fairness and an up-or-down vote.

The individual nominee now before the Senate is Priscilla Owen. Justice Owen has been qualified, in the judicial sense, by the American Bar Association. She has been reelected by 84 percent of the people in Texas. More than 4 years ago, the President nominated her to be a judge on the U.S. Court of Appeals for the Fifth Circuit. Since then the Senate has thoroughly and exhaustively investigated and debated her nomination. A brief look at the record tells the story.

The Judiciary Committee has held two hearings on her nomination lasting more than 9 hours. During the hearings, Justice Owen answered more than 400 questions from Senators on the committee. After the hearings, Justice Owen submitted 90 pages of responses to an additional 118 written questions. The Judiciary Committee has debated her an additional 5 hours before committee votes. Today marks the 20th day of Senate floor debate on Justice Owen's nomination. We have spent more floor time on Priscilla Owen than on all the sitting Supreme Court Justices combined.

Yes, Justice Owen has not received one single up-or-down vote on the Senate floor—not one. Four years of waiting, 9 hours of committee hearings, more than 500 questions answered, another 5 hours of committee debate, and 20 days of floor debate, but not 1 up-or-down vote to confirm or reject—not 1.

As majority leader, I have tried for 2 years to find a mutually agreeable solution that will resolve this issue without sacrificing the core principle of an up-or-down vote. I have offered to guarantee up to 100 hours of debate, and 400 written questions for every judicial nominee, far more than has ever been necessary for any nominee in the past. I have offered to guarantee that no nominee ever becomes unjustly stalled in the Judiciary Committee, as some colleagues have alleged has occurred in previous Congresses. Thus far these efforts have not been successful. I remain hopeful that the Senate can reestablish the tradition of fair up-or-down votes without the need for procedural or parliamentary tactics.

Tomorrow, Senators will have another opportunity to diffuse this controversy. The Senate is pending a decision before the Senate. If cloture is invoked, it will bring debate to an orderly close. With cloture pending, 60 votes cast in the affirmative tomorrow would yield a fair up-or-down vote on Justice Owen. I look forward to the debate ahead. I look forward to hearing from my colleagues. And I look forward to a decision by all 100 Senators on the nomination of Justice Owen, a decision expressed through a vote, a vote to confirm or reject.

The American people expect us to act and not just debate. They expect results and not just rhetoric. We may not—in fact, we will not—agree on every judicial nomination, but we can agree on the principle that qualified judicial nominees deserve an up-or-down vote. Tomorrow, we will vote, and all 100 Senators will decide—judicial obstruction or fair up-or-down votes.

I yield the floor.

The President pro tempore. The Democratic leader is recognized.

Mr. REID. Mr. President, I wish to respond briefly to the distinguished Republican Senator from Michigan, Mr. VANDENBERG, for the record. Priscilla Owen has had numerous votes. She has had three that I am aware of on the Senate floor. Those votes dealt with whether we should stop debating her.

The votes three times have said no.

The Senate reception area is a beautiful part of the Capitol. I can remember coming here in 1974 and Hubert Humphrey coming off the Senate floor. He had to sit down. He couldn't stand it. He had to walk over to the Senate. That was a beautiful hall. I worked here 10 years before that as a policeman. Of course, I recognized the beauty of the building and of that beautiful room.

We have put out there what we refer to as a Hall of Fame of Senators. It is a place where you have photographs of Senators who were extra special Senators, people who the rest of the Senate, after that Senator left the Senate, determined was somebody who deserved to be in the Hall of Fame. One such man is Arthur Vandenberg. I wish I could have known him. He was a wonderful Senator, a very progressive, thoughtful man.

My distinguished colleague, the Senator from Michigan, Mr. LEVIN, read into the RECORD last week, May 20:

What the present Senate rules mean: and for the sake of law and order, shall they be protected in the meaning until changed by the Senate itself in the fashion required by the rules?

He summarized this issue that is before the Senate today and did it about 60 years ago on an occasion similar to this. How prescient are his comments to the situation in which we find ourselves today.

Senator Vandenberg:

[The rules of the Senate as they exist at the present time and are currently being altered by precedent should not be changed substantively by the interpretive action of the Senate's Presiding Officer, even with the sanction of an equally permanent Senate majority. The rules can be safely changed only by the direct and conscious action of every 100 Senators acting in the fashion prescribed by the rules. Otherwise, no rule in the Senate is worth the paper it is written on, and this so-called "greater democratic majority" of the Senate for the primary purpose of every change in parliamentary authority, which means the Republicans are in power today and the Democrats may be tomorrow, and a simple majority can change anything.

Mr. President, this is the way it should be. You should not be able to come in here and change willy-nilly a rule of the Senate. A rule of the Senate, you change by the rules. This so-called 'greater democratic majority' could bring up objectionable international commitments with only an hour or two for debate, hardly enough time for opponents to inform the public and rally the citizenry against ratification.

What they are attempting to do in this instance is really too bad. It will change this body forever. We will be an extension of the House of Representatives. There is no simple majority there can determine everything. Those of us who went to law school—and the Presiding Officer is a Harvard graduate. I went to George Washington. We know the precedent in the law is important. A precedent of the Senate is even more important. There will be a precedent set that will be here forever if the vote we take tomorrow prevails.

I feel there are Republicans of good will who are willing to be profiled in court. With success or failure tomorrow afternoon or evening and say we cannot do that. We believe that conservative Senators such as Malcolm Wallop
and Jim McClure are right. They believe—Malcolm Wallop and Jim McClure—that especially small Western States need protection. The reason we had the Great Compromise of 1787 was to allow the State of Rhode Island to have equal power in the Senate with New York. What is being attempted will take that away, change the Senate forever.

So I am convinced and hopeful and confident that there will be six courageous Republican Senators who will step down here and go against their leader, go against their President, as was done by Thomas Jefferson’s Senate when he had a significant majority and tried to play with the courts; and when Franklin Roosevelt, with a tremendous majority—and no President has ever been more popular than he was when elected in 1936—tried to pack the courts. His Democratic Senators said no. Even the Vice President who served under Roosevelt, James Garner, said no deal. The President called the Democratic leadership to the White House and said this is what we are going to do. He never conferred with them. And they, wanting to go along with the most popular President, probably, in many years—when they walked out, they said no, we are not going to do that. Democratic Senators made the difference. We need Republican Senators here to make the difference, stand and be counted when we vote. We only need six courageous people to stop the Senate from becoming an extension of the House of Representatives.

I suggest the absence of a quorum. The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. President, before I speak to the important principles at stake in this debate, I want to take this opportunity to thank the Majority Leader for doing everything in his power to avoid the impasse we face today. We have arrived at this moment in the Senate’s history not because of a failure of effort, but because of a failure of cooperation.

Over the past two years, Senator Frist and other members of the Republican leadership have made compromise an important objective.

We have repeatedly offered to extend the period of debate on the President’s judicial nominees. Fifty hours, 100 hours, have been offered—even 200 hours of debate on some of these nominees—all in an effort to ensure that our Democrat colleagues have sufficient time to raise and explain their concerns. Without exception, these offers to extend the debate have been rejected out-of-hand.

In May of 2003, Senator Frist and then-Senator Miller of Georgia introduced compromise legislation that would allow the filing of successive cloture motions on judicial nominees, with each motion requiring fewer votes for passage, and ultimately a simple majority. When it came time to consider this sensible legislation in the Rules Committee, my Democrat colleagues boycotted the mark-up.

In April of 2004, the current Chairman of the Senate Judiciary Committee, Senator Specter, introduced legislation to help remove politics from the judicial confirmation process and ensure that nominees would be given a hearing, that they would be reported out of committee, and would receive a vote on the Senate floor. The Democrats reacted to this proposal with silence.

Senator Frist has been in regular communication with Senator Reid, and on March 17 of this year, he formally wrote to Senator Reid expressing his hope that a compromise could be fashioned, and that a constitutional option would only be exercised if there were no reasonable alternatives.

And, on April 28, Majority Leader formally reached out again to Senator Reid, proposing to grant 100 hours of floor debate for filibustered nominees—that’s more than twice the time spent by the Senate debating any of the nominations of the current Supreme Court Justices. Senator Frist also proposed to develop a process to ensure that a majority of Members of the Senate were not bottled up in the Judiciary Committee, a complaint often made by my Democrat colleagues. Once again, this sincere effort at compromise was immediately rebuffed.

So let the record be clear: The Majority Leader has pursued compromise with vigor, and he should be commended for doing so.

But, of course, when compromise fails, action must take its place. We are here today because there are important principles at stake—principles that are worth defending.

Does the President have the right to expect that his nominees to the Federal bench will be fully considered by the United States Senate? Does the Senate have a constitutional obligation to offer “advice and consent” on these nominations? And are judicial nominees entitled to an up-or-down vote on the Senate floor?

The answer to each of these questions is a resounding “yes.” For more than 214 years, judicial nominees with clear majority support have received an up-or-down vote on the Senate floor, with a majority vote leading to confirmation. Until just two years ago, a 60-vote supermajority was never the standard for confirmation to the Federal bench. Those are the facts.

By blocking not one, but ten, of President Bush’s judicial nominees the Senate has demonstrated that filibustering judicial nominees is just business as usual. They specifically cite the nominations of Abe Fortas, Marsha Berzon, and Richard Paez as examples of Republican-led obstruction efforts. And, let’s not forget: Justice Fortas’ nomination was debated for just several days before President Johnson took action. Many of President Bush’s nominees have been pending before the Senate not for days, but for years.

I am not sure what citing the Berzon and Paez nominations proves, since both individuals were given the courtesy of an up-or-down vote, and both were ultimately confirmed. They are now sitting judges. In fact, the Majority Leader at the time—Trent Lott—worked to end debate on both nominations, believing then, as we do now, that judicial nominees deserve a vote on the Senate floor.

So, what we are witnessing today is something wholly different: It is a highly organized obstruction campaign that is partisan in origin, unfair in its application, harmful to this institution, and unprecedented in our Nation’s history.

Now, let’s take a moment to examine the record of the individual whose nomination is before the Senate today. Justice Priscilla Owen has been called everything from an “extremist” to a “far-right partisan” to someone who is “out of the mainstream.”

But the simple fact is that Justice Owen’s record is that of a distinguished jurist who enjoys broad support and who understands that her role is to apply the law fairly and impartially. She is the only justice to be nominated to the Supreme Court after a long career as a litigator in a prominent Texas law firm. Justice Owen earned the highest score on the December 1977 Texas bar exam and ranked near the top of her class at the Baylor University School of Law. She has been endorsed by a bipartisan group of 15 past presidents of the Texas State Bar. An advocate for providing pro bono legal services to the poor, Owen also received a unanimous “well-qualified” rating from the American Bar Association. The motion for cloture has been sponsored by that organization—I add, the “gold standard” for our Democrat friends. And in her last election to the
Texas supreme court, Justice Owen earned a stunning 84% of the vote and was endorsed by every major newspaper in the Lone Star State.

Justice Owen received her vote in Texas and she deserves her vote on the floor of the Senate.

Mr. President, there is another important issue that must be raised beyond that of the rules and procedures of the Senate: It is the impact this episode in the Senate’s history will have on the willingness of men and women to serve their country by serving on the Federal bench.

Millions of Americans have watched as the good reputation of Justice Owen has been unfairly tarnished. As have the reputations of Justice Janice Rogers Brown, and Judge Terrence Boyle, Miguel Estrada, and the other nominees. Their lives and careers have been reduced to partisan—and wholly inaccurate—television sound bites with words like right-wing, radical, extremist.

For those of either party contemplating future service on the Federal bench, this spectacle of unfairness must be chilling—chilling—a glowing “proceed with caution” signal, suggesting that other career options should be pursued instead.

For the sake of the Federal courts in our country, we must do better. We can start by restoring the traditional standard for the confirmation of judicial nominees. Guaranteeing every nominee the opportunity of an up-or-down vote on the Senate floor will dramatically reduce the role of outside interest groups who see the filibuster as a way to exert pressure and score political points. It will force us to debate these nominees on the merits, with real arguments, not with politically convenient slogans and labels. And hopefully, it will help make an appointment to the Federal bench an attractive option for those young people out there thinking about a career in service to the public.

I yield the floor.

The PRESIDENT pro tempore. Under the previous agreement, the time is now divided 1 hour on each side with the previous agreement, the time is now divided 1 hour on each side with the first hour under the control of the majority leader or his designee.

Does the Senator from Kentucky seek recognition?

Mr. BUNNING. Mr. President, I do.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. BUNNING. Mr. President, what is the current business before the Senate?

The PRESIDENT pro tempore. The nomination of Priscilla Owen.

Mr. President, it is important for Senators to understand what we are talking about here. We are talking about the nomination of Texas Supreme Court Justice Priscilla Owen to be a Federal circuit judge. We are talking about fulfilling our constitutional responsibilities to give advice and consent. We are talking about whether each Senator will vote yes or no in an up-or-down vote on the nomination of Justice Owen. And soon we will be talking about the long-blocked nominations of California Supreme Court Justice Janice Rogers Brown, former Alabama Attorney General Bill Pryor, and others passed by the Senate Judicial Committee.

As the Presiding Officer said, the Senate’s pending business is the nomination of Justice Priscilla Owen. Justice Owen has had a distinguished record as a judge who respects the rule of law and as an elected legislator who defends the rights of the American people. As a judge, she has applied the law as it is written, not as she wished it were written.

The American Bar Association unani mously rated Justice Owen “well qualified.” Everyone here knows that the ABA is not exactly a conservative organization, so that rating speaks volumes. She has served on the Supreme Court of Texas for more than 10 years. She has served on the circuit and law to the facts of the case regardless of personal opinions on issues, and attorneys, and more impressively than that, in her most recent election, she received 84 percent of the vote. I cannot imagine getting 84 percent. Justice Owen has had a distinguished career in service to the public. She has served on the Supreme Court of Texas for more than 10 years, and the California Legislature’s decision on that year’s ballot.

During the 108th Congress, Democrats tried to reduce the number of times Democratic justices were nominated to the Supreme Court by an order of law. She understands that elected judges, lawyers, and law professors in the nation of Justice Priscilla Owen. I was impressed with her intelligence and honesty. I was impressed with her energy and determination to see this through. But most of all, I am satisfied that Justice Owen will interpret the law as it is written, rather than try to rewrite it, and I am convinced that she will stand up to any other judges on the Fifth Circuit Court of Appeals who try to re-write the law from the bench.

Why has Justice Owen been denied an up-or-down vote? As best I can tell, it is because they crossed the radical left when she voted not to take away a mother’s right to know that her teenager wanted to have an abortion. Justice Owen did not write the Texas law requiring notification. The legislature did. She merely agreed with the two lower courts that the requirement of the exceptions in the law had not been met.

In the time when a teenage girl cannot get her ears pierced at the mall or take an aspirin at school without parental consent, it is not out of the mainstream to enforce a law requiring notice to a parent before that same teenager can get an abortion.

Another reason. Discussing this week, California Supreme Court Justice Janice Rogers Brown, is also a nominee who will stand up to the activist judges on the Ninth Circuit Court. Justice Brown has been on the California Supreme Court for 9 years, and she received 76 percent of the vote in her last election, the most of any justice on that year’s ballot.

Justice Brown has earned a reputation as a judge who respects the law and the California Legislature’s decision. She has consistently deferred to the legislature’s judgment and not substituted her own political views. In other words, she knows the role of a judge is not to write the law but to apply the law.

Justice Brown has earned the respect of her California colleagues. In recent years, she has been chosen by the court to write the majority opinions more times than any of her fellow justices. She has the endorsement of both the Republicans and Democratic judges, lawyers, and law professors in California.

Critics point to the statements that Justice Brown made about her policy views outside—outside, I say—of the courtroom. While some may not agree with her personal opinions on issues, outside the courtroom is the place where she should feel free to make her policy views known.

Some of her political views may conflict with the laws of the State of California, but Justice Brown has had no problem applying those laws to the cases before her. That is exactly what a judge is supposed to do—apply the facts of the case and law to the facts of the case regardless of whether the judge would have voted for that law if she or he had been in the legislature.

Mr. President, 5 years ago, a discussion like this about nominees would have been overlooked by members of this body. A few Senators would give a statement on the Senate floor in support of a nominee to a circuit court. A few more Senators would insert a statement into the Record. And then the Senate would confirm the nominee by a rollcall vote or even a voice vote. That was the ordinary course of business in this body for 214 years. But that is not the case anymore.

Ever since President Bush was elected, his nominees to the circuit court have been denied an up-or-down vote. During the 107th Congress, many of his nominees did not advance when the Senate was under Democratic control. During the 108th Congress, Democrats thwarted the first case of a filibuster of judicial nominees, all of whom have majority support in this body.

We hear a lot from the other side about majority rights. No one on this side of the aisle wants to restrict the opposition’s ability to speak their objections and vote against these nominees. I invite Senators who oppose these nominees to come to this floor and speak their objections. I encourage them to try to convince me why I should vote against these nominees. It was the case that a majority of Senators trying to take for themselves a power that the Constitution gives only to the President of the United States. This is about a minority of Senators thwarting 214 years of Senate tradition. This is about the obliteration and fairness of giving a nominee a vote. This is all about whether elections in this country mean anything.

We are currently engaged in a war against terrorism. We have helped the Iraqi people conduct peaceful demonstrations against terrorism. We have helped the Iraqi people conduct peaceful democratic elections; also the people of Afghanistan. We have seen the power of the democratic process in the Ukraine,
and we have seen the strength of the voice of the people longing for freedom in Lebanon. Even Kuwait is taking steps to allow women to vote for the first time. How can we as a nation speak of the power of the people, the validation of the democratic process and the strength of the vote, if we let a minority in this body thwart the will of the democratically elected President and majority of this body.

Last fall, the American people spoke clearly. In the highest numbers in history, the American people went to the polls and voiced their opinion with their votes. The American people chose George W. Bush as their President, and the American people get to vote on who fills the seats of that court sit empty because the nominees of one State, Michigan, are being denied an up-or-down vote. Those vacancies have a real effect on the lives of 30 million people who live in the Sixth Circuit. The people of Kentucky, Ohio, Tennessee, and Michigan, the people of the Sixth Circuit, are being denied justice in a timely manner.

This issue is far too important to leave unresolved any longer. We must move to a vote. The record is clear. The nominees before the Senate are qualified to serve on the Federal bench. Liberal special interest groups are fighting to stop these nominees, and therefore a minority of Senators is thwarting more than 200 years of Senate tradition to block votes on these nominees.

The other side has no other way to advance its ultraliberal agenda. They cannot pass their laws through this Congress or through State legislatures. They cannot even get elected by running for Congress. So they must turn to the courts, the last holdout of active liberal power to impose their agenda.

What is that agenda? It is unlimited abortion on demand, without even notice to the parents of a minor child or the father of that child. It is about allowing partial-birth abortions. That liberal agenda is about rewriting the definition of marriage. It is about stripping down the pledge of allegiance because it recognizes God. That agenda is about banning the Ten Commandments from public buildings. That agenda is allowing pornographic photos and other things into our libraries and across the Internet.

That ultraliberal agenda does not sell in the heartland around the dinner table. It does not even sell here in the Congress. So the last great hope for the liberals is the judicial bench, and that is why they fight these judicial nominees who do not give in to their liberal, activist agenda. The only thing that can stop the rewriting of our Constitution and not write new laws on these issues. So they must turn to the courts, the last holdout of active liberal power to impose their agenda.

The Constitution gives the President, and only the President, the power to make nominations. It is up to him to pick a nominee. We in the Senate are only empowered to speak for or against and to vote for or against a nominee.

The nominees’ records have been examined. Senators have come forth with their objections, and there is still time for objections to be spoken. We have offered to debate the nominations for as much time as the minority wants, to be followed by an up-or-down vote. But the time has long since gone to set that vote. The President deserves to have that vote, the majority of the Senate deserves to have that vote, but particularly the nominees deserve to have that vote, and the American people deserve to have that vote. The American people deserve to see how their elected representatives vote on these nominations and to see what kind of judges their Senators support.

We have a crisis in the Federal judiciary. We have too many judges who act like they are in Congress, not on the bench. Those judges are imposing their values on the American people through their decisions. That is why we must move to votes like the ones before the Senate, to stand up to activist judges and uphold the law and the Constitution and not write new laws from the bench. Liberal special interests have taken over the Democratic Party and are fighting to stop these nominees, and therefore a minority of Senators is thwarting more than 200 years of Senate tradition to block votes on these nominees.

The other side has no other way to advance its ultraliberal agenda. They cannot pass their laws through this Congress or through State legislatures. They cannot even get elected by running for Congress. So they must turn to the courts, the last holdout of active liberal power to impose their agenda.

Mr. GRASSLEY. Mr. President, I am going to speak on the judge issue that is before the Senate. I was wondering what the time constraints are.

The PRESIDING OFFICER. The time until 1 o’clock is controlled by the majority.

Mr. GRASSLEY. That means I can speak until 1 o’clock; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRASSLEY. Mr. President, for several days now, the Senate has been debating two nominees for the Federal bench, Priscilla Owen and Janice Rogers Brown. I come to the floor to express my support for these two highly qualified women, and I also do it to urge my colleagues to support an up-or-down vote so that these folks know whether a majority of the Senate is consenting to their nomination by the President of the United States, in other words, confirm these two highly qualified judges.

One of the most important roles that we, as a body, have is the responsibility of advising and consenting to individuals that the President has nominated to fill positions on the three levels of the Federal judiciary. But this responsibility has been threatened by actions of Democratic leadership. Of course, that has brought us to this extended debate, over several days now, about the role of the Senate as expressed in the Constitution about the handling of Federal judges nominated by the President.

It seems to me the Constitution is very clear on the role of the Senate in this judicial confirmation process. Judicial nominees are chosen by the President with the advice and consent of this body. Until President Bush was elected, no one ever interpreted this requirement to mean anything but a simple majority vote of those present and voting in the Senate. For over 200 years, no judicial nomination, with a clear majority support in the Senate, has ever been denied an up-or-down vote on the Senate floor. This was the case regardless of whether a Republican or Democratic President was in office. This was the case, regardless of whether the Senate was controlled by Democrats or Republicans.

Recently, in the last Congress, the Democratic leadership decided it was going to change the ground rules. The Senate Democrats rejected a 200-year-old Senate tradition of giving judicial nominees an up-or-down vote. By doing this, the Democratic leadership has rejected the Constitution, rejected the traditions of the Senate, and it seems to me as a result of the last election, when approving judges was very much an issue to the American electorate, they are now rejecting the will of the American people.

The Democratic leadership targeted 16 of President Bush’s 52 court of appeal nominees. They actually filibustered 10 and threatened to filibuster 6
more, a full 31 percent of President Bush’s appellate court nominees being stymied. Because of this, President Bush has had the lowest percentage of his court nominees confirmed by any President in recent memory.

What is the issue about? It is basically a debate about what the Constitution requires of the Senate. It is a debate about fairness to the individuals who do not have an opportunity to see whether a majority of the Senate supports them and approves their appointment.

And in the case of fairness to the individual nominees, they have been waiting for years to be confirmed. They have majority support in the Senate, but a minority of Senators is opposed to President Bush’s appellate court nominees and, as a consequence, will not allow the Senate to give these individuals an up-or-down vote. The Democratic leadership will not allow the Senate to exercise its constitutional duty on these nominees.

The Democratic leadership will not allow even one Senator to exercise his constitutional responsibilities. In a sense, this Senator from Iowa and 99 others are being denied an opportunity to carry out their constitutional responsibility. That is simply not right. The Constitution demands an up-or-down vote. Fairness demands an up-or-down vote.

Some have claimed a rule change on this matter is a violation of Senators’ free speech and minority rights. Let me make it very clear, we are not talking about changing rules in this process, we are talking about abiding by the practice of the Senate, until 2 years ago, over the 214-year history of the Senate. So no rule change, just doing what the Senate has always been doing, and no one has raised the issue before about a Senator’s free speech and minority rights being violated.

There is not anything out of the ordinary then about a majority wanting to exercise its right to keep Senate procedures the same as they have always been.

For example, we were faced with problems in 1977, 1979, 1980, and 1987, problems that were visualized by the Senate majority leader at that time as stopping the Senate from doing what is constitutionally necessary for the Senate to do. In those years, Senator Byrd led a Democratic Senate majority in setting precedents to restrict minority rights. The Republicans, who were the minority party, did not respond by threatening the shutdown of the Senate or the stalling of legislation.

On the other hand, the actions of the Senate Democrats now are an unprecedented obstruction, plain and simple. The Democratic leadership is not interested in additional debate on the nominees. This is not about minorities wanting to exercise speech and debate on the nominees, it is about them they might want. The Republican majority leader has offered the Democrats time and again as much time as they want for debate. Yet the Democratic leader indicated in so many words that the Democrats would not agree to any time agreement.

The Democratic leadership has taken the position that it will not even allow an up-or-down vote. The minority leader has indicated there is no time long enough for Democrats to debate these nominations.

I clearly understand the importance of filibusters and would not want to see them done away with completely. However, it is also important to make a distinction between filibustering legislation and filibustering judicial nominations. The interests of the minority party are protected in the Senate. It is the only segment of our Government where minority points of view are protected. It has served a very good purpose over 200 years bringing about compromise. Filibusters are meant to allow insurance that the minority has a voice in crafting legislation.

When working on a bill, it is possible to make changes in compromises to legislative language until you get the 60 votes needed under Senate rules to bring debate to a close.

In the tradition of the filibuster on legislation, unlimited debate ensures that compromise can take place, protecting some of the desires of the minority. That minority might not be a partisan minority; that minority could be a bipartisan minority that wants to make sure certain changes are made in legislation.

Judicial nominees, however, are very different than legislation. An individual such as Judge Brown or Judge Owen cannot be compromised some way so the filibuster, the way it is used in legislation, can be used to bring about compromise of an individual because you cannot redraft a person like you can redraft legislation to get over a filibuster, to get to finality so a majority of the Senate decide if they will be rejected and should be removed.

It is just plain hogwash to say that making these nominees up or down will hurt our ability to reestablish fairness in the judicial nominating process. It is not going to do that. The Republican majority leader is also trying to do what he thinks is the best thing for this country by moving to reestablish the over 200-year Senate tradition by giving judicial nominees the up-or-down vote.

This is not going to destroy the Senate. It is in the tradition of the Senate and it is within the tradition of the Constitution. The 214-year history of this Senate speaks louder than just the last 2 years, but the last 2 years will trump the first 214 years if we do not take action to keep the advice and consent confirmation process within the tradition of the Senate.

It is just plain hogwash to say that moving to make sure the rule is to give judicial nominees an up-or-down vote will hurt our ability to reestablish fairness in the judicial nominating process. It is not going to do that. The minority leader wants to do is to have a chance to vote these nominees up or down. If these individuals do not have 51 votes, they will be rejected and should be rejected. But if these individuals do have 51 votes, then they should be confirmed. That is according to the Constitution.

If a Senator disapproves of any one of these individuals, vote against the nomination long before in the past. But do not deprive the people right to support a nominee through their elected Senator.
Some claim many judicial nominees were filibustered by Republicans, particularly when President Clinton was in office. That isn’t accurate and that is a nice way for me to say it. Very few people either inside or outside this Chamber ever mention it as involved in using the issue of judicial nominations and the use of the filibuster as I have. As a long-time chairman of the Judiciary Subcommittee on the Federal Courts, I have a unique perspective on the debate and the use of filibusters.

First, Democrats were in a majority in the Senate under President Reagan—and this goes back to my starting in the Senate in 1981—they blocked 30 of President Reagan’s nominees and 58 of President Bush Senior’s nominees. They did that in the Judiciary Committee.

Now, that is not equivalent to a filibuster. I do not want to mislead anybody. Then, in the last few years of President Clinton’s administration, many became disillusioned with the number of nominees the administration had sent to the Senate, and we felt our own Republican leadership was allowing out-of-the-mainstream nominees to be confirmed. This has led to the nominations of Ninth Circuit Judges Paez and Berzon. Now, understand these people are serving as judges now. They were nominated to that position by President Clinton.

Going back to this time of Judges Paez and Berzon, at that time we had a Democratic President and a Republican-controlled Senate. There was serious talk of filibustering these nominees. I have heard some Democrats and ill-informed pundits try to make the case that Paez and Berzon were filibustered. Well, they were not.

The reality is, the Republican leadership, including the chairman of the Judiciary Committee at the time, argued that these nominees had never been a filibuster of an appellate court nominee. The Republican leadership argued Republicans should not cross that and hold up a majority of the Senate to endorse outlandish and baseless attacks on their record and character if they ever want to be a Federal judge. The Democrats are other worthy nominees such as Miguel Estrada got tired of putting up with the antics of the Senate, a Senate untradtional of its first 214-year history, and just said: I am not going to go through it. Miguel Estrada withdrew his nomination. The travesty is that a nominee like Judge Pickering is trashed. The travesty is that good name of a nominee like William Pryor is dragged through the mud.

Ripping to shreds the reputation of these individuals with unfounded allegations is unacceptable. This tactic sends a clear message to good people who want to serve their country that they will be subjected to obstruction and baseless attacks on their record and character if they ever want to be a Federal judge. The Democrats are doing this because they are using a far left litmus test to satisfy their left-wing—all their allies, the far left special interest groups. The Democrats are doing this because they are using a far left litmus test to satisfy their left-wing—outside the mainstream—special groups. So when the Democratic leadership says these nominees are outside the mainstream, they are basically saying these individuals have not been approved by their allies, the far left special interest groups.

But judicial nominees should not be subject to a litmus test. A nominee should not be opposed, as Priscilla Owen and Janice Rogers Brown are being opposed right now, because they will strictly follow the law, be constitutionalists, rather than legislate from the bench some leftwing agenda.

Moreover, history has proven the wisdom of having the President place judges with the support of the majority, not a supermajority, in each Senate. This process ensures balance on the courts when judges placed on the bench by Republican Presidents and those placed on the bench by Democratic Presidents.

The current obstruction led by Senate Democratic leaders threatens that balance. Priscilla Owen and Janice Rogers Brown deserve an up-or-down vote. It is high time to make sure all judges receive fair up-or-down votes on the floor. But that is not true. The process for judicial nominees of both Republican and Democratic Presidents alike in the tradition of the Senate for 214 years, until 2 years ago.

In my town meetings across Iowa, I hear from people all the time. Why aren’t the judges being confirmed? If we do not take care of this issue this week, I am going to hear it in my 22 town meetings across Iowa next week when we are not in session. I think most people understand the process is being politicized to the point that good men and women are being demonized and their records distorted at an unprecedented level. The Democrats are the ones who have distorted the rules to the point that good men and women are being denied their ability to fulfill its constitutional responsibility. And if Senator Frist has done, that is doing is leaving the rules practiced exactly the way they were for 214 years.

Filibustering judicial nominees may be touted as standing firm on principle. On the contrary, what it boils down to is obstruction of justice. Let’s do what’s right for the American people a favor. Let’s stop the theatrics and get back to the people’s business. All the rallies and political spin doctoring are not clearing any court dockets, and they are not improving the American system of justice. Let’s debate the nominees and give our advice and consent. It is a simple ‘yes’ or ‘no’ when called to the altar to vote. Filibustering a nominee into oblivion is misguided warfare and the wrong way for a minority party to leverage influence in the Senate. Threatening to grind legislative activity to a standstill if they do not get
their way is like being a bully on the school yard playground. Let’s do our jobs.

Nothing is nuclear about asking the full Senate to take an up-or-down vote on judicial nominees. It is the way the Senate operated for 214 years. The reality here is the Democrats are the ones who are turning Senate tradition on its head by installing a filibuster against the President’s judicial nominees.

The Senate has a choice. We can live up to our constitutional duties to advise and consent to President Bush’s judicial nominees or we can surrender our constitutional duty to the leftwing special interest groups who apparently control the Democratic Party. This Senator chooses to follow the Constitution.

We need to return to a respectable and fair process. We need to return to the law and the Constitution. We need to return to the Senate’s longstanding tradition of an up-or-down vote for these judicial nominees.

In case there are some people sincerely led to believe that somehow appointing certain people with a strict constitutionalism to the courts is somehow to worry about, I would simply ask them to look at history works in bringing balance to our judiciary throughout the history of our country. Think in terms of 8 years of a Republican President appointing people who are strict constitutionalists to the judgeships—and not all of them are; but just say that they might all be—then you have 8 years of a Democratic president with people of an opposite point of view being appointed to the judgeships. That brings balance.

But also think in terms of how it is difficult to predict down the road 25 years how judges are going to rule. Think of two of the foremost liberal people on the Supreme Court, Justice Souter and Justice Stevens. Who do you think appointed these most liberal members to the Supreme Court? Republican Presidents did. And then balance that with the two other most liberal members on the Supreme Court, Breyer and Ginsburg. Who appointed them? A Democratic President. You could make an argument that Republican Presidents have brought more balance to the Supreme Court than Democratic Presidents have.

Then the other thing is, look at somewhere you thought they were going to be predictable where they would end up, and you have Justice Kennedy and you have Justice O’Connor, who were supposed to be very strict constructionists when they were appointed to the Supreme Court, but they go back and forth between the conservative wing of the Court and the liberal wing of the Court.

So I hate to label the Democratic Senators of today. I wish they would take a look at history. Time answers a lot of these problems. Elections answer a lot of these problems. And we have a great constitutional system that has worked for so long over such a long period of time that in the final analysis everything is going to work out OK.

I yield the floor.

The PRESIDENT PRO Tempore Mr. Roberts. Mrs. Feinstein. Mr. President, I come to the floor to make a plea to my colleagues and my friends on both sides of the aisle. I have spoken on this issue twice. But within 24 hours, the time will come when the Senate may well be changed. Right now is the time to let political pressures cool, to step back from the brink and to reflect on the long-term consequences rather than the short-term gain. The time has come to walk away from a decision that will turn our governmental system on its head.

The reason this is called the nuclear option is not necessarily what it would do to the body but what it does to our entire judicial system. Because for the first time in history, a rule will be changed or, as we on this side of the aisle say, broken, by a majority vote, 51 votes, a majority of the Senate, when in fact rule changes require a two-thirds majority vote. There is no judicial precedent of individuals of this body that can be changed with 51 votes.

I understand that it is going to be done without consultation of the Parliamentarian. My understanding is that he would say that he has no rules or precedent to change this rule with only 51 votes. Nonetheless, it is going to be done. When taken to its logical conclusion, a majority vote in favor of the nuclear option will fundamentally alter our democracy, not only by breaking the rules as I just described but by altering the fundamental balance between this body and the other House and, most particularly, the role that Senators have and should play in confirming the constituents for over 200 years.

I recognize we may not agree on the qualifications of the nominees before us. I recognize many of my friends on the other side of the aisle feel very strongly about confirming these candidates to the court. But in the end, regardless of who is right and who is wrong, changing the Senate’s rules, throwing out precedent, will profoundly harm this body, the comity we enjoy, the moderation that has defined the Senate, the bipartisanship that is essential, and the balance of power that is needed to maintain any form of a democratic government, particularly this one.

This nuclear option changes the deliberative nature of this body because it, in effect, ipso facto changes the Senate into the House of Representatives so that the Senate will work its will by majority. That has never necessarily been the way we do things. We all know the Senate is like a huge bicycle wheel. When one of the 100 spokes is out of line, it stops the wheel. So everybody respects that and pulls back from the brink because of it because we know if we are the one that puts on the hold or stops the wheel from turning, that we also can feel that happen to us with our legislation and our bills.

Former Republican Senator Warren Rudman, whom I greatly respect— he represented New Hampshire from 1980 to 1993—was quoted in the press this weekend. Let me share with you what he said:

I will lament this vote if it succeeds. People tend to look at the history of the Senate and how it functions, and my bottom line is that the Founding Fathers wanted a true balance of power and this would shift the balance of power to the House. My sense is, thinking back on it, that I don’t think you could have gotten 51 votes on this sort of thing in the past... I would have clearly voted against it.

That was Warren Rudman this past weekend.

I urge my colleagues on the other side of the aisle to stand up against the political tidal wave pushing this agenda and let the passions of the moment cool. The debate last week was overwhelmed with fiery rhetoric and political posturing. One Republican compared Democrats to Adolf Hitler. Another Senator insinuated that Democratic opposition to the nuclear option is a “sacred cow” based on the nominee’s religious faith. Others twisted the history of judicial nominations beyond recognition. And to be fair, some Senators on our side of the aisle also employed fiery language.

Just listening to this debate, we can see what will happen if the majority goes forward on this path. The Senate will most certainly face a loss of civility, a loss of respect for differences. Political message will overwhelm substantive policy, and political potshots will drive our debates rather than the best interests of the American people. Playing to the base rather than playing out the real-life consequences of our acts will rule the day. Regardless of our opinion on each nominee before the Senate should be appointed to the appellate courts, the aftermath of the nuclear option will not serve the American people well.

On two prior occasions, I have come to the floor to talk about the importance of checks and balances, the intentions of our Founding Fathers, the structure of the Constitution, and the inherent benefits of conflict and compromise. Our forefathers knew, as do we, that our country is essential to a true democracy is the need for a balance of power because who is in the minority has, and will, constantly change.

Democrats held the House majority for over 50 years, and now Republicans have been in the majority for over a decade. Democrats held the White House for 8 years. Now Republicans will have occupied the White House for 8 years. The swing back and forth between the majority and the minority applies not just to political parties but to political groups as well. Populations change and the political pendulum swings, but what moderates those swings and the tidal wave
of power is the role and influence of the minority.

While it is true many of us on this side of the aisle were frustrated when Republicans used their rights and the Senate rules to block Clinton's judges and judicial nominees, the role of minority legislation has worked and has been an important balance in our country.

As my colleague, Senator Lieberman, said last week:

In a Senate that is increasingly partisan and polarized and, therefore, unproductive, the institutional requirement for 60 votes is one of the last best hopes for bipartisanship and moderation.

For example, President Clinton understood the strong feelings of our Republican colleagues on judges, and he went to extensive efforts to consult Republicans on judges that would be nominated. In describing these efforts, Senator Hatch in his book wrote that he "had several opportunities to talk privately with President Clinton about a variety of issues, especially judicial nominations."

Senator Hatch described how when the first Supreme Court vacancy arose in 1993, "it was not a surprise when the President called to talk about the appointment and what he was thinking of doing." He went on to describe that the President was thinking of nominating someone who would require a "tough political battle." Senator Hatch recalled that he advised President Clinton to consider other candidates and suggested then-DC Circuit Judge Ruth Bader Ginsburg, as well as then-First Circuit Judge Stephen Breyer.

So there was a defined, informal consultation that showed the power and authority of the Republican chairman of the Judiciary Committee, who actually reviewed President Clinton's decision that time that Bill Clinton—the names of Ruth Bader Ginsburg and Stephen Breyer for appointment to the Supreme Court. However, today there is not really active consultation by this administration in most cases. Instead, there appears to be a kind of disregard for the opinions of all Democratic Senators, even home State Senators. I know my colleagues from Michigan have been extremely frustrated in their efforts to have a role in the selection process, and I include a majority in our discussion to the stalemate over the Sixth Circuit.

I am also concerned that if the nuclear option moves forward, there will no longer really be a need for the Judiciary Committee. I ask my colleagues to think about this. If the President is to be given unlimited power to appoint however he chooses, there will be no need for hearings, there will be no need for an examination of a nominee's record. Any dissent or concerns will fall off the table. If the President is to be given unlimited power to appoint, whatever he chooses, there will be no need for hearings, there will be no need for an examination of a nominee's record. Any dissent or concerns will fall off the table.
the nuclear option would require that “one or more of the Senate’s precedents be overturned or interpreted otherwise than in the past.” The American people strongly oppose the nuclear option, according to recent polls, because they see it for what it is: rewriting the rules to trample the minority.

That is the New York Times.

The Associated Press reported on a new rule about judges and the Senate’s role. The results found that 78 percent of those polled stated that the Senate should “take an assertive role in examining each nominee.” And a Time poll said 59 percent of Americans believe Republicans should not be able to eliminate the filibuster. Whereas, in sharp contrast, a poll released last Thursday by NBC News/Wall Street Journal found that only 33 percent of those surveyed approve of the job being done by the Congress. This is a monumental number. I submit that as partisanship and the polarization of this body increases, the poll numbers will continue to decrease because that is not what the American people want us to do.

In addition, there were more reports of former Republican Senators who are also concerned about the impact of a nuclear option. Former Senator Clifford Hansen, a Wyoming Republican who served from 1967 to 1978, was quoted as stating:

Being a Republican, we were the minority party, and I suspect there are some similarities between our situation then and those that the Democrats find themselves in today. I don’t think it would have concerned me if there were limits on the filibuster. When I was in the Senate, the Democrats were in control, and we made a lot of friends with the Democratic Party, and I rationalized then that if I were going to get anything done, I had to reach out and establish some real friendships with members on the other side.

That is what this Democrat has tried to do over the past few years as well.

The Los Angeles Times wrote:

If a showdown over President Bush’s nominees goes forward as planned next week, it would mark one more significant step in the Senate’s transformation from a clubby bastion of bipartisanship into a free-wheeling political arena as raucous as the House of Representatives.

And The Economist wrote:

Amid all this uncertainty, the filibuster debate has almost certainly harmed one institution: the Senate. It was deliberately designed by the Founding Fathers to be the deliberative branch of the American Government. Senators who sit for 6 years rather than the 2 years of the populist House, have long prided themselves on their independence. The politics of partisanship has now arrived in the upper Chamber with a vengeance. The Senate has long stood as a barrier to government activism on either side. It begins with Senators unhappy with any position taken by the majority. It begins with judicial nominations. Next will be executive appointments, and then it will be legislation. If this is allowed to happen, if the Senate becomes the House of Representatives, where the majority rules supreme and the party in power can dominate and control the agenda with absolute power, it will be saying that supreme rule is not the way to do the people’s business—constrained by time limits artificially imposed because of this present situation.

I very much regret what we are in today. To give you just a small example—and I think the President knows this—I sit on three committees. Two of those committees, markup of critical bills, are meeting simultaneously. They are Intelligence, marking up the Patriot Act; Judiciary, marking up the asbestos bill; and the Energy Committee, marking up the Energy bill at the same time. This is not the way to do the people’s business. And I am sure that it would have continued in the upper Chamber with a vengeance. The Senate’s transformation from a clubby bastion of bipartisanship into a free-wheeling political arena as raucous as the House of Representatives.

Mr. AKAKA. Mr. President, I rise today in opposition to the nomination of Texas Supreme Court Justice Priscilla Owen to the U.S. Court of Appeals for the Fifth Circuit. After being rejected by the Senate Judiciary Committee in 2002, and after being renominated and successfully filibustered by the full Senate in the 108th Congress, Justice Owen has been nominated yet again to the U.S. Court of Appeals for the Fifth Circuit.

In my opinion, Justice Owen has not demonstrated an appropriate judicial temperament for a lifetime appointment to the Federal bench. More importantly, her own colleagues on the conservative Texas State Supreme Court have described her dissents as “nothing more than inflammatory rhetoric.” In another case, the majority stated that Justice Owen’s dissenting opinion, “... not only disregards the procedural limitations in the statute but takes a position even more extreme.” However, I will not dwell too long on Justice Owen’s record. It speaks for itself, and as I mentioned earlier, we have given much time and thought to this nomination. Much has already been said in opposition. As a result, I will spend some time on the majority’s plan in this Chamber to subvert the minority’s right to extended debate.
I have spent the past few weeks listening to the debate over seven nominees who were not confirmed in the 108th Congress and have been renominated to the Federal bench by President Bush. We are nearing the end of a debate that has been going on for some time now. The very nature of how the Constitution operates: by a delicate balance of the majority's ability to set the agenda and the protection of the minority's rights. One thing is clear to me, this discussion about the minority's right to extend debate is not getting us any closer to enacting much-needed legislation to assist our constituents.

Outside of Washington, DC, on a day-to-day basis our constituents face many challenges: escalating health care costs, record high gas prices, and mounting debt that will be handed down to our children and grandchildren. Despite these day-to-day challenges, the majority party continues to put seven judicial nominations at the top of its agenda. I am to provide the President with my advice and consent regarding the individuals he nominees for a lifetime position to the Federal judiciary. Let me say that again: a lifetime position on the Federal bench. I may have sat across the aisle but the Democrats are so vigorously defending the rights of the minority in this case? Why do we need to preserve the tradition of extended debate with regard to judicial nominations?

The reason why we are taking a stand against these nominees is because once they gain the Senate's advice and consent, nominees are free to decide thousands of key cases that affect millions of Americans on a day-to-day basis. We may have sat on judicial nominees in the past but the Democrats are so vigorously defending the rights of the minority in this case? Why do we need to preserve the tradition of extended debate with regard to judicial nominations?

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the Federal judiciary, creating the lowest vacancy rate in 13 years. According to the Administrative Office of the United States Courts, there are 45 vacancies on the Federal bench. This is a decrease in total vacancies from 97 when this President first took office.

Let's consider the urgent legislation which will truly help our constituents—jobs, access to health care, education, the minimum wage, and helping the poor.

In South Dakota where the divide between the majority and minority is held by a handful of votes, and that division reflects the viewpoint of the American body politic at-large, it is imperative that we work together to resolve the many issues that are important to our constituents. When it comes to judicial nominations, the confirmation of 208 judges clearly shows that we in the minority are doing what we can to work with the majority in upholding our constitutional obligation to provide advice and consent to the President on judicial nominations. I can only hope we achieve a success rate of 95 percent in enacting legislation addressing funding for education, access to health care, the minimum wage, benefits and services for our veterans, business and economic development, and financial literacy to enable individuals and families to make sound decisions in their lives.

Mr. President, I ask unanimous consent that the remainder of my time be provided to the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, how much time do I have until the time of the Senator from South Dakota begins?

The PRESIDING OFFICER. The time of the Senator from South Dakota is recognized.

Mr. SCHUMER. Mr. President, I thank my colleague from New York for his excellent point.

Mr. President, tomorrow we may be casting a historic vote in this Chamber. It has to do with a fundamental decision that we, as Senators, must make as to the very nature of government in our democracy, as to the fundamental values of this body, the Senate. We will determine whether we will remain with the 200-year-old parliamentary rules of this body, which assure that at least there will be some modicum of bipartisanship on virtually all issues of import, or whether, in unprecedented fashion, will wind up stripping away that fundamental rule, that 60-vote rule, the filibuster rule which for over 200 years has brought both parties together whether they liked it or not. We must choose whether we will discard that and, in effect, create an environment where it is very clear that the Senate, as has happened all too often to our colleagues in the House, will collapse into a spirit of partisan vituperation that will undo efforts at bringing the parties together, will undo our efforts to build bridges between Republicans and Democrats, and will push government in this body to the far extremes, far outside the political centerism which is the genius of the American people.

In my State of South Dakota, we have a heavy party registration on the side of the Republican Party. I respect that. I am proud of the support over the years that a great many South Dakotans have cast for me. But whether they are Republicans or Democrats, I think the overwhelming view across my State is one of common sense. It recognizes that neither one of the political parties has all the answers, that both parties have their share of bad ideas, and that governance from the far left or far right is not acceptable. Wisdom in America, more often than not, is found in the political center. That is what the filibuster rule, that is what the fillibuster margin has forced upon the Senate and is what makes the Senate unique, different from the House of Representatives.

I served 10 years in the House. It was an honor to serve there. But I know the reason for the other rule that happens. One party can run roughshod over the other. All too often, bipartisanism is viewed by the current leadership on the House side with contempt. The thought that there ought to be governance from the center, a bipartisan view by the Senate, viewed by some in the other party as “girly-man” politics, unworthy of their radical agenda. It is here in the Senate that the Founders, 200 years ago, understood that this body’s orientation would be to take the longer view. This body was to be the more deliberative body. This body would not march lockstep to any ideological drummer.

More than any other factor in the Senate, what has enforced that different character on this body which has served the American people so well, has been the 60-vote margin rule. Both parties know that in order to make much of anything happen here, they must reach across the aisle. Not a lot. It is a huge number of members of the opposing political party, but it requires some. That has had a wonderful beneficial consequence for the wisdom of legislation in America, and certainly for the selection of judges.

There is no judicial crisis. We all know. One doesn’t have to be a cynic to understand that the judicial crisis, if you will, is a fabricated political vehicle. President Bush has had 208 of his judges approved by broad, bipartisan margins. Essentially each and every one of them was a conservative Republican judge. That is the President’s prerogative. The Senate has not reacted negatively to that.

In contrast with what we saw only a few years ago during the Clinton administration. President Bush has had all of his nominees receive hearings. All of his nominees, who were so chosen, received a vote up or down—a 60-vote margin vote but a vote nonetheless. Every Senator has been required to stand up and be counted and reflect back to his or her constituencies where they stood on that judge.

In the case of President Clinton, however, over 60 of his nominees received no hearing or no vote. Where was the clamor then? Where was the cry of unfairness then? I think, to Senator Reid’s great good credit, as well as Senator Leahy, we have agreed that what was done to President Clinton should never be done to President Bush. That was unfair from either political angle. In fact, all of President Bush’s nominees should get hearings. If their nomination stands, they should be voted on, publicly, on the record. That is exactly what has happened.

But now there are some who suggest that 208 to 10 is unsatisfactory and, for that reason, they are going to unseat...
these historic rules of the Senate. They are going to discard the Senate as the one body of the two that forces bipartisan-ship and political centrist.

Senator Reid deserves great credit for his efforts to try to reach some compromise in these historic rules of the Senate. Unfortunately, these efforts have—to this point, in any event—been futile. One can only come to the conclusion that the majority leadership has reached such an impasse because of a certain underlying, perhaps, the radical right that no compromise of any kind is acceptable. So here we stand with the very likely, very clear possibility that the fundamental checks and balances of American government—the requirement that there be moderation, the requirement that we govern from the center and not from the far left or far right—is about to be discarded.

Let no one believe that this has to do only with judges. The political tactical here once used is then available. The precedent is available for all issues, whether they have to do with educ-ation, environment, health care, the budget, war—all of these issues will henceforth be susceptible to a partisan party line. I would say the other side of the political spectrum or the other. That is a tragic change after 200—some years of the Senate being the body of deliberation, being the body of political moderation.

We ought to be dealing, rather than with this issue, with the core issues that my constituents—and I think all Americans—care about. We have a great undone business relative to the deficit, relative to job creation, relative to trying to make sure all Americans have access to affordable health care. We have changes that are needed in our educational system, both under No Child Left Behind as well as reauthor-ization of the Higher Education Act. We have a transportation bill. We have an energy bill before us. Yet here we are, arguing about a parliamentary step which—while many people will view as “inside baseball,” as something of no great consequence, this issue, this vote we will take soon—is of monumental consequence to the nature of the institution that will be deciding all these other matters in the years to come.

I wish there were no need for any of us to be here. Today, as our Nation and the world confront new and great perils, there are paralyzing forces of incivility and intolerance that threaten our country. Divisions in Congress also re-act, the filibuster rule, the 60-vote major-ity vote, the 6-year terms, assure the nature of that House. That is right or not in legislation pending before us. Within the rules of the Senate, the filibuster rule, the 60-vote major rule, has served America well. It has pushed the political debate to a commonsense point—common sense being a value that my constituents and I would not care less about when it comes to Washington, DC, but which does occur as often as it does in no small measure be-cause of the filibuster rule and its in-sistence, grabbing both political par-ties by the collars, pushing them to-gether, and fighting. You must work to-gether or otherwise neither of you will have your way.

This is an effort to radicalize the Senate, to radicalize government in America in a way that many Americans will never understand. They will never recognize how this could have happened.

It is my hope as we come down to these final hours that my colleagues on both sides of the aisle will pause and take a long view of the role of this in-stitution, of the importance of cen-trism. The political party line and all that means, if we truly are to reflect the values and priorities of the American people here in the Senate. If we allow this institution to veer off sharply to either ideological end of the spectrum, we will have done a horrible disservice to the American people, to future generations of Americans, and, frankly, to the world. This issue is that fundamental. It goes to the very nature of governance in America.

It is my hope all our colleagues will rise to stand as statesmen at a time when political pressures are great for what is right and will cast a loud vote to be counted by the American people on behalf of what is right rather than what is politically convenient at this particular time. It is my hope that in these intervening hours we will have a significant number of people who will understand what is at stake and, in fact, uphold the values and priorities of the American people by retaining the parliamentary rules of this body that have prevailed for well over 200 years, will understand there is no judicial crisis, will understand when it comes to giving lifetime appoint-ments to the bench it would be very easy for President Bush to have 100 percent of his judges approved simply by nominating judges who can be ap-proved by 60 Members of this body. That is a modest request. That is the kind of consultative role the Founders envisioned under their constitutional provision of advice and consent.

The goal was not to create a lockstep ideological opportunity. The goal was for both parties to work together and in good faith evaluate the qualities of people who will serve our judiciary for lifetime appointments. It is my hope we will rise to that standard and that we will cast that vote to preserve that orientation, preserve the very values of the Senate.

Mr. President, I yield my time.
these divisions. We keep talking past one another, saying the same things, but basically being in disagreement.

Dr. Abshire quoted the poet William Yeats, who said this, a dire prediction:

Things fall apart; the center cannot hold;

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be a lot of milling around. We do not have to go there. Let us restore the 214-year-old precedent of an up-or-down majority vote and see if we cannot reach accord and ride to a higher—a higher—common ground.

I yield back.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, we turn on the television these days and get bombarded with advertisements saying: "Write your Senator." "Write your Senator." "Call your Senator and preserve the filibuster." "Get ahold of your Senator and make sure this tool that provides rights and protections of the minority gets preserved."

I have been associated with the Senate now since I was a 18-year-old intern sitting in the family gallery in the 1950s, falling in love with the debate that was going on, on the Senate floor. I must say there were usually more Senators here in the 1950s than there are now, but I understand, with television, the Senators stay in their offices and watch, and I am happy to accept that. But I understand the traditions of this body have great roots in history that many times get ignored. That get ignored by people writing columns and stories today. I want to go on record very firmly as being on the same side as those people who are buying the ads saying: "Preserve the filibuster." I have watched the filibuster be used to help shape legislation. I watched the filibuster be used as a tool of compromise. I think the filibuster is a very worthwhile thing to hang on to in order to preserve the rights of the minority.

Now, that position of saying "let's save the filibuster" has not always been popular. If you go back 10 years ago, when a proposal was made on the Senate floor to abolish the filibuster, the New York Times editorialized in favor of that position. The New York Times told us . . . the filibuster has become the tool of the sore loser.

The Times was anxious to have the whole thing wiped away. There were only 19 Senators who voted to abolish the filibuster, 9 of whom are still serving today. The rest of us all voted to preserve the filibuster. So I am on record as saying: We must preserve the filibuster. I value it. I believe it has a place in the Senate. However, I also believe it right to shape the filibuster, to focus the filibuster, to reform the filibuster, so it can be used in a more effective way.

There are those now who, when they say "save the filibuster," mean "save the filibuster in its historic form, because its historic form has changed over the years."

The first point, as far as history is concerned, is this: The filibuster did not come into existence with the Constitution. I had a phone call over the weekend from a very dear friend who said: This is a constitutional issue that goes back all the way to the Founding Fathers. However, the filibuster, Rule XXII, came into the Senate history in 1917. That is a long time after the Founding Fathers. And it has been changed several times since that time, some times by formal Senate rule. It was changed again in 1956. It was changed again in 1975. So for those who run the ads saying "save the filibuster," maybe the first question is, which filibuster do you have in mind that you want us to save?

But there is another aspect of the filibuster. I turn again to the New York Times. It is amazing how much they have changed their minds in the intervening 10 years. After the New York Times said the filibuster was a tool of the sore loser, now in this debate they decide that . . . the filibuster is a time-honored Senate procedure . . .

They editorialize: "Keep it just the way it is." Well, I want to talk about the kind of filibuster we could have and what the time-honored Senate procedures would say about the filibuster. Senator Kennedy said:

A majority may adopt the rules in the first place. It is preposterous to assert they may deny future majorities the right to change them.

Senator Kennedy was enunciating a time-honored Senate procedure that said a majority had the right to change the rules. This was in 1975. Senator Mondale served in 1975. Senator Mondale had this to say in 1975, when there was a debate on what kind of filibuster would have and what the time-honored Senate procedures would say about the filibuster. Senator Kennedy said:

The majority leader, asked Vice President Mondale to "please sit in the chair," to be there when Senator BYRD made "some points of order" and created "some new precedents" to "break these filibusters." He goes on to describe what happened:

And the filibuster was broken—back, neck, legs, and arms. It went away in 12 hours.

So I know something about filibusters. I helped to set a great many of the precedents that are in the books here.

A time-honored Senate procedure.

Senator BYRD did it again. Going back to 1949, Senator BYRD led the Senators, all but one of whom were Democrats, in overturning the Chair and eliminating all debate on motions to proceed to nominations. The point here is an important one. He did not abolish the filibuster. He did not say: Get rid of the filibuster. He did not by abide by the advice of the New York Times that said it was a tool of sore losers. But he helped shape it. He helped focus it. He said the filibuster should not be quite as broad as it may have been in the past. And using the time-honored Senate procedure of making a point of order, and getting the Senate to vote, he helped shape it, and the Senate Democrats set this precedent before the Senate had even begun to debate the motion, so that the filibuster that used to apply to motions to proceed to nominations no longer does.

And how was the rule changed? It was changed by a time-honored Senate procedure.

Now, there is one other time-honored Senate procedure that Senator LEAHY mentioned. The gentleman from Oregon, Senator LEAHY, in his statement Senator LEAHY made in 1997, as he was talking about nominations for the Federal bench. Senator LEAHY,
who at the time was the ranking minority member of the Judiciary Committee—he went on later to become the chairman—said:
I cannot recall a judicial nomination being successfully filibustered. I do recall earlier this year when the Republican chairman of the Judiciary Committee and I noted how improper it would be to filibuster a judicial nomination.
I have the same recollection. I remember in our conference when the issue of filibustering some of President Clinton’s judges came up, it was the Republican chairman of the Judiciary Committee by majority vote, called for a Senator HATCH, who stood before the conference and said: “Do not do it. It would be improper to filibuster a judicial nominee. Having judicial nominees get a Supreme Court confirmation is a time-honored precedent.” Senator Lott was the majority leader. He took the floor, after Senator Hatch had spoken, and said: “Senator Hatch is right. We should not cross the line and start to filibuster judicial nominations because the Senate tradition has said no.
So that is where we are now. The Senate tradition has been changed. The Members of the minority have exercised their right, which has always been on the books, to change the precedent which had held for so long that even Senator LEAHY could not recall an exception to it. What we are talking about doing now is using the time-honored Senate procedure of changing the rule by majority vote, to see that the prior precedent remains—or, rather, returns because it was broken in the 108th Congress.
So I value the filibuster. I am in favor of the filibuster. But I think the filibuster and still be shaped and so it is more focused than simply an across-the-board procedure.
I want to close by putting something of a human face on this whole issue because we are talking about this filibuster of judicial nominees almost as if the judicial nominees were not people, almost as if the judicial nominees were spectators in this activity. They are not open books, they are seeing their reputations smeared. They are seeing their history attacked. It is time we spent a little time thinking about them.
I know the nomination on the floor is Priscilla Owen, but over the weekend I had called to my attention an article that appeared in the Sacramento Bee by one Ginger Rutland that I would like to close with. It is entitled: “Worrying about the Right Things. Ginger Rutland identifies herself as “a journalist of generally liberal leanings,” and she talks about the nomination of Janice Rogers Brown.
Both Ms. Rutland and Ms. Brown live in California. Ms. Rutland says:
I've been trying to get a fix on Brown since President Bush nominated her for the influential U.S. Circuit Court of Appeals for the District of Columbia.
It talks about the experience. And then she makes this comment:
Championed by conservatives, Brown terrifies my liberal friends. They worry she will end up on the U.S. Supreme Court. I don’t. I find myself rooting for Brown. I hope she survives the storm and eventually becomes the first black woman on the nation’s highest court. I want her there because I believe she is a jurist whose work more than most worries me about our justice system: bigotry, unequal treatment and laws and police practices that discriminate against people who are black and brown and weak and poor.
She was born and raised poor, a sharecropper’s daughter in segregated Alabama. She was a single mother for a time, raising a black child, a male child. I don’t think you can raise a black man in this country without being sensitive to the issues of discrimination and police harassment.
She goes on in the article. I ask unanimous consent that the entire article be printed in the Record at the conclusion of my remarks.


The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENNETT. She concludes with this comment:
I don’t pretend to know how Brown will rule on other important issues likely to reach the Federal courts. I only know that I want judges who will defend the rights of the poor and the disenfranchised in our country.

She believes Janice Rogers Brown is one of those jurists.
I am not sure whether she is right or wrong. But I do know Janice Rogers Brown deserves the opportunity to have her nomination voted on. And if one use of the filibuster has been to prevent Priscilla Owen and Janice Rogers Brown and others like them from getting this honored procedure of the Senate can be used with equal justification to see to it that the filibuster gets tweaked a little bit to make sure we go back to the practice that existed here for decades.
For that reason, I will support the motion of the majority leader if it becomes necessary to make sure that we have an opportunity to a vote on Priscilla Owen. I hope as a result of this debate, our friends on the Democratic side of the aisle have a better sense of Priscilla Owen’s cause, as she told me when it started, “I’ve never understood how killin’ other folks’ children ever solved anything.”
I’m almost embarrassed to admit it, but desperate for deeper insight, I visited Brown’s church last Sunday, the Cordova Church of Christ. The judge wasn’t there, but her mother, Doris Holland was. She knew me, but we’re not friends. The association is no more than political, understood guardedly. She told me that as a young girl Brown liked to read and had an imaginary friend; that was about it. We’re probably not as friendly as is the congregation is to each other.
Church members know Brown and her husband, jazz musician Dewey Parker, and like them. The church itself is conservative, allowing no instrumental music in its services, no robes, no bishops or hierarchy of any kind. The religious right may have taken up Brown’s cause in Congress, but the sermon at Cordova that day contained no political content.
Championed by conservatives, Brown terrifies my liberal friends. They worry she will end up on the U.S. Supreme Court. I don’t. I find myself rooting for Brown. I hope she survives the storm and eventually becomes the first black woman on the nation’s highest court.
I want her there because I believe she worries about the things that most worry me about our justice system: bigotry, unequal treatment and laws and police practices that discriminate against people who are black and brown and weak and poor.
She was born and raised poor, a sharecropper’s daughter in segregated Alabama. She was a single mother for a time, raising a black child, a male child. I don’t think you can raise a black male without being sensitive to the issues of discrimination and police harassment.
And yes I know. People said that Clarence Thomas would be sensitive to those issues, too, and he's been a disappointment.

But in Brown's case, I have something more than a suspicion that he has a passion for basic constitutional rights. Hopes that my liberal friends—criticized an opinion written by its most conservative member, Justice Antonin Scalia, for allowing police to search beyond reason not just drivers of cars but "those who walk, bicycle, rollerblade, skateboard or propel a scooter." She reserved special scorn for judges who permit police to discriminate while advising the targets of discrimination to sue to challenge their oppressors. "Such a suggestion overlooks the possibility that victims will barely have enough money to pay the traffic citation, much less be able to afford an attorney. . . . To dismiss people who have suffered from supposedly illegitimate remedies that are illusory or nonexistent allows courts to comportable about bigotry while claiming compassion for its victims," she wrote.

"Judges go along with questionable police conduct, proclaiming that their hands are tied. If our hands really are tied, it behooves us to gnaw through the ropes."

With that last pronouncement, Brown confirms that her fellow jurists did not. She is an "activist judge." Judges who "gnaw through ropes" to protect people being harassed by cops represent the kind of judicial activism I can support. Liberals pretend that President Brown's strong dissent in McKay. Conservatives mention it only in passing, as if embarrassed that one of its own jurists could have any qualms about law enforcement bias or a creeping police state.

I don't pretend to know how Brown will rule on other important issues likely to reach the federal courts. I only know that I want judges on those courts who will defend the rights of the poor and the disenchanted in our country against the rich and the powerful. I believe that they are wrong. I want someone who will defend people like Conrad McKay.

Mr. BENNETT. I yield the floor. 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.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I rise to talk about Priscilla Owen, a woman who serves on the Texas Supreme Court, a woman of the highest moral character, and a woman whose confirmation has been held up by the Senate for over 4 years—Justice Owens was first nominated on May 5, 2001, by President Bush. Her nomination has actually been voted on four times by the Senate: May 1, 2003, a cloture vote, she won 52 votes; May 8, 2003, she won 52 votes; July 29, 2003, she won 53 votes; November 15, 2003, she won 53 votes.

If one looks back on a 200-year Senate tradition, the Constitution's requirement for simple majority votes on judicial nominations—as well as the specific instances where the Constitution went beyond the simple majority votes, one would presume that Priscilla Owen would be sitting on the Fifth Circuit Court of Appeals and the majority in the Senate would not have to be restoring precedent. My goodness, why isn't she sitting on the Fifth Circuit Court of Appeals bench?

Priscilla Owen is not sitting on the Fifth Circuit Court of Appeals, even though she received a majority of the votes in the Senate four times, because a new standard is now being required, a new standard of 60 votes. Did we have a constitutional amendment that would require 60 votes? No. Did we have a rule that required 60 votes? No. We just had—to use a phrase of a minority in the Senate in the last session of Congress—the first time in the history of our country when a majority of the Senate has been thwarted by the minority on Federal judicial appointments.

There have, from time to time, been filibusters when the person did not have 51 votes in the Senate; never when a majority of the Senate voted to support that nominee. Yet that is exactly what has happened to Priscilla Owen.

There has been a change in the balance of power that was envisioned in the Constitution without a constitutional amendment. Last Friday on the Senate floor, some Democratic Members of the Senate said that we should have a 60-vote requirement for Federal judges to be confirmed by the Senate. That is worthy of discussion. It is worthy for us to have that debate. But the debate should be in the context of the Constitution. By driving through the process our Founding Fathers said would be required for a constitutional amendment. Let's put it to a test. Let's determine if that is the right thing and do it the right way. But this is not what is happening here today.

In fact, it is significant that we look at the historical comparison of the first term of a President and the confirmation of appeals court nominees. President George W. Bush has the lowest percentage of confirmations of any President in the history of the United States. President Clinton had 77 percent of his appellate court nominees confirmed. President George H.W. Bush had 90 percent. President Carter had 93 percent. President Ford had 73 percent. President Nixon had 93 percent. President Kennedy had 81 percent. President Eisenhower had 98 percent. President Truman had 91 percent. But President Bush today has 69 percent, the lowest of any President in the history of our country. Almost 30 percent of his circuit court nominees were filibustered and died by the Senate.

The basis of a filibuster is delicate—founded in a Constitution that is not easily changed. It is important that those who are sworn to uphold the Constitution, not tread on it without going through the proper procedures of a constitutional amendment. Thwarting the majority by requiring 60 votes on qualified judicial nominees, as the minority did last session, undermines the delicate balance of power.

I hope the Senate will come to its senses. There has been a lot written lately about the Senate, about the process in the Senate being broken. Last week, I talked to a well-known
journalist to discuss his views of what is happening in Washington. I asked him a number of questions, but the most difficult was the one that he posed to me: What in the world is the Senate thinking about in the confirmation process? Do you realize that this is impeding the President’s ability to recruit quality people for Government service?

Mr. President, my colleagues on the Democratic side of the aisle are correct. We are heading for a crisis, but it is not a crisis over minority rights. No one on our side of the aisle has even suggested that minority rights should be overruled. The filibuster will remain intact. What we are trying to do is get the constitutional process for confirmation of Federal judges backed to what has been the tradition in the Senate and what the Constitution envisioned, and that is a 51-vote majority.

Never, until the last session of Congress, was the majority will thwarted in Federal judges and circuit court most particularly. So the crisis is not over the Senate process; the crisis is how group influence is turning the Senate into a permanent political battleground. It is unseemly, it is wrong, it is going to harm the quality of our judiciary because we are going to start seeing nominees who are not the best and the brightest, who don’t have clear opinions, and who are not well-published and renown constitutional experts.

I think it was pretty well brought out in an article in the Washington Post yesterday, titled “The Wreck of the U.S. Senate.” It quoted John Breaux, our former Democratic colleague. He said:

Today, unfortunately, outside groups, public relations firms, and the political consultants who are dedicated to one thing, a perpetual campaign to make one party a winner and the other a loser, has snatched the political process.

Some years ago, we started on a road downward toward a low common denominator, and I think we are continuing that descent. In the article, I think it mentioned that the point of embarkation for this descent was the nomination process of John Tower, a former Senator who had an incredible record on national defense, who was perhaps the most knowledgeable Senator in the Senate on that subject, who was turned down for his Secretary of Defense with innuendo, things that were totally untrue being said about him. Many of my colleagues who are in this body today say it was unconscionable what was done to Senator John Tower.

Mr. President, I am sorry to say I think it has happened again and again. I look at Priscilla Owen, who is one of the best and brightest, who is a judge with judicial temperament, who has shown her brilliance from the days she graduated from Baylor Law School cum laude, top of her class, Baylor Law Review, to making the highest score on the Texas bar exam the year she took it. The distortions of this fine judge’s record have been incredible. She has been meticulous in following the law, in not trying to make law but interpret the law; and I am really concerned that if someone like Priscilla Owen, who is an every Republican, the support of the Attorney General of the United States, with whom she served, who actually sought her out for appointment because he was so impressed with her judicial standards. If someone like that has to take “brick baths” for 4 years, how are we going to recruit the very top legal minds in our country, people who have shown themselves time and time again to be excellent at what they do? How are we going to recruit them to submit themselves to this kind of process?

The National Abortion Rights Action League was reported by columnist Bob Novak to have hired an opposition research team not just for Priscilla Owen—and they have certainly been working at the Senate level to distort the record of 30 sitting judges, including Judge Edith Jones from Houston, and why would they be doing that? Why would the National Abortion Rights Action League start looking at sitting judges in our country today to try to find some way to harm them or distort their records? Why would they do that? Interestingly, it looks as if the people chosen to be investigated are people who might be potential appointees to the United States Supreme Court.

Mr. President, we are in a downward spiral in this country. Prior to holding federally-elected office, I remember watching the Senate debate over Clarence Thomas. I thought the Senate did an exceedingly good job of scrutinizing Clarence Thomas, bringing out the major points. But the hearings on Justice Thomas’ nomination were brutal. They were brutal. They were personal. It was something which I am sure was very difficult for him to overcome. I don’t think we have to be personal to make points. I don’t think we have to distort records. I don’t think we should employ innuendo in looking at nominees for our Federal bench.

I think a principle that this country needs to take a very hard look at the processes we are using, at the outside influences and the motivations of these groups. When I turn on my television in Washington, I see ads for and against Priscilla Owen. Priscilla has been silent for four years, unwilling to lash out at her opponents and too respectful of Senate procedure to defend herself against empty criticisms. But I am glad she has been defended. I visited with her last week when she was here, and there is a personal process in this process. She will be a fine judge, but was she prepared for the four years of “brick baths” to which she could not respond?

You know, she had several very nice opportunities to do something else in these four years, but she is such a fine person, with such a strong backbone, that she did not want to withdraw her name from consideration so it could be filled with a Republican. She didn’t want to leave President Bush vulnerable to an attack that her nomination was a mistake and that there was something hidden in her record. She is proud of her record, and she knows President Bush is proud of his appointment of her. She has nothing—nothing—upon which she can base any kind of decision to leave this nomination process. She is sticking with President Bush because he made a good decision, and he is sticking with her.

But these judges are not people who have put themselves in the arena in the same way that partisan politicians do. I don’t think she was prepared to be attacked on a weekly or monthly basis and have her record snatched from her when she submitted herself for this important nomination. She was rated unanimously by the American Bar Association committee that gives its recommendations on judges to the Judiciary Committee as “well qualified,” the highest rating that can be given by the ABA. It was unanimous. Yet, this fine person has been raked over the coals, has had misrepresentations and distortions made about her. I recently spoke about Priscilla Owen, the person—I said, “She is something which I am sure was very profound wisdom. She is as excellent a person of principle, of strength, and of lovely or not. Well, I wanted people to see that in addition to a stellar record, she is a person with profound wisdom, and impeccable integrity, Priscilla Owen is also a lovely person.

An honest person who has even gone against the prevailing view of the Republican Party in Texas by suggesting we not elect Supreme Court justices in Texas. She has actually written on that subject, saying we should not taint the judiciary with partisan politics. So, I want the record to reflect that she is a lovely person—but also a principle person. She is a person of profound wisdom. She is as excellent a nominee, with as excellent a record as we have ever seen come before the United States Senate.

Mr. President, I think the Senate, as a body, should think about how we treat the people who come to submit themselves for public service. Many of them do so because they believe this is their calling and they do so with every good intention, including taking large salary cuts, Priscilla Owen chose to move in the personal life sacrifices to run for the Supreme Court of Texas instead of continuing as a partner in a major law firm in Texas.
She has shown in every way that she is qualified for this position, and I hope we will give her what she deserves after four years of waiting, and that is an up-or-down vote. When we do, she will be confirmed and she will be one of the finest judges sitting on the Federal circuit court of appeals today.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired. The next hour will be controlled by the minority.

The senior Senator from West Virginia.

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The minority controls the next 60 minutes.

Mr. BYRD. Mr. President, I rise today to speak sadly. I have been a Member of Congress—now I am in my 53rd year. Two other members have served longer than I. Only 11,732 men and women have served in the Congress of that since the Republic began in 1789. That is 217 years. Those two Members were the late Senator Carl Hayden of Arizona, who was chairman of the Appropriations Committee when I came to this body, and Representative Jamie Whitten of Mississippi, a member of the House Appropriations Committee, a man with whom I served. So only two others have served longer in the Congress, meaning the House of Representatives alone or both—only two.

I say to you, Mr. President, and you, Mr. President, can you imagine my feelings as I stand now to speak in this Senate, which tomorrow—24 to 36 to 48 hours from now—may be changed from what it was when it began, when it first met in April of 1789, and from what it was when I came here to the Senate now going on 47 years ago.

I can see Everett Dirksen as he stood at that desk. He was the then-minority leader. Lyndon B. Johnson of Texas was the majority leader. Yes, I can see Norris Cotton. I can see George Aiken. I can see Jack Javits. I can see Margaret Chase Smith of Maine, the only woman in the Senate at that time, as she sat on the front row of the Republican side of the aisle. I can see others, yes.

How would they have voted? How would they have voted on this question which will confront us tomorrow? How would they have voted? I have no doubt as to how they would have voted were they here tomorrow. And so my heart is sad that we would even come to a moment such as this. Sad, sad, sad, sad it is.

I rise today to make a request of my fellow Senators. In so doing, I reach out to all Senators on both sides of the aisle, respectful of the institution of the Senate and of the opinions of all Senators, respectful of the institution of the Presidency as well. I ask each Senator to pause for a moment and reflect seriously on the role of the Senate as it has existed now for 217 years, and on the role that it will play in the future if the so-called nuclear option or the so-called constitutional option—one in the same—is invoked.

I implore Senators to step back—step back, step back, step back—from the precipice. Step back away from the cameras and the commentators and from the noise and the fear in which we find ourselves. Things are not right, and the American people know that things are not right. The political discourse in our country has become so distorted, so unpleasant, so strident, so deliberalized. And then, that people are turning to a place of serenity, a place that they trust to seek the truth. They are turning to their religious faith in a time of ever-quickening contradictory messages transmitted by e-mail, by BlackBerrys, by Palm Pilots, answering machines, Tivo, voice mail, satellite TV, cell phones, Fox News, and so many other media outlets. America is suffering sensory overload.

We hear a lot of talk, but we do not know what to make of it. So some are turning to a place of quiet, a secure place, a place where they can find peace. They are turning to their faith, their religious faith.

Our Nation seems to be at a crossroads. People are seeking answers to legitimate questions about the future of our country, the future of our judiciary, and what role religions play in public lives. But it is difficult to find time away from the tumultuousness of our times to build a consensus in response to these profound questions when the venues for serious discussion of these issues often amount to little more than "shoutfests," "hardball," and "Crossfire."

Mr. President, what is next, "Slash and Burn" "Your faith or mine?" Perhaps because so few traditional channels of communication even now in the Senate provide a venue for thoughtful discussion, Americans are seeking another outlet. They are wondering, not in Congress or in the courts but through a higher power, through their religious faith.

In fact, it is the reaction of some to recent court decisions that has fueled the drive by a sincere minority, perhaps, in this country, the drive, where it might be a majority in this country, the drive toward the pillars of faith.

Many American citizens since the early religious people are angered and alienated by a belief that their views are not respected in the political process. They are deeply frustrated, and I am in sympathy with such feelings. I do not agree with many of the decisions that have come from the courts concerning prayer in school or concerning prohibitions on the display of religious items in public places.

For example, concerning freedom of religion, the establishment clause of the Constitution states that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . .

In my humble opinion, too many have not given equal weight to both of these clauses but have focused only on the first clause which prohibits the establishment of religion, with too little attention and at the expense of the second clause, which protects the right of conscience in matters of religion. I have always believed that the country was founded by men and women of strong faith whose intent was never to suppress religion but to ensure that civil Government favors no single religion over another. This is reflected in Thomas Jefferson's insistence on religious liberty in the founding of our Republic. In his Virginia Act for Establishing Religion Freedom, Jefferson wrote that no man shall be compelled to frequent or support any religious worship or shall otherwise suffer on account of his religious opinion or belief, but all men shall be free to profess and by argument to maintain their opinions in matters of religion, and that all men shall be at liberty to practice any religion in the way of worship as they shall think best. I have no doubt which will confront us tomorrow? How would they have voted on this question she sat on the front row of the Republican side of the aisle, meaning the House of Representatives alone or both—only two.

The Senator from West Virginia.

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We hear a lot of talk, but we do not know what to make of it. So some are turning to a place of quiet, a secure place, a place where they can find peace. They are turning to their faith, their religious faith.

Our Nation seems to be at a crossroads. People are seeking answers to legitimate questions about the future of our country, the future of our judiciary, and what role religions play in public lives. But it is difficult to find time away from the tumultuousness of our times to build a consensus in response to these profound questions when the venues for serious discussion of these issues often amount to little more than "shoutfests," "hardball," and "Crossfire."

Mr. President, what is next, "Slash and Burn" "Your faith or mine?" Perhaps because so few traditional channels of communication even now in the Senate provide a venue for thoughtful discussion, Americans are seeking another outlet. They are wondering, not in Congress or in the courts but through a higher power, through their religious faith.

In fact, it is the reaction of some to recent court decisions that has fueled the drive by a sincere minority, perhaps, in this country, the drive, where it might be a majority in this country, the drive toward the pillars of faith.

Many American citizens since the early religious people are angered and alienated by a belief that their views are not respected in the political process. They are deeply frustrated, and I am in sympathy with such feelings. I do not agree with many of the decisions that have come from the courts concerning prayer in school or concerning prohibitions on the display of religious items in public places.

For example, concerning freedom of religion, the establishment clause of the Constitution states that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . .
They have every reason to seek some sort of remedy, but these frustrations, great as they are, must not be allowed to destroy crucial institutional mechanisms in the Senate that have protected minority rights for over 200 years and, when necessary, must be available, of course, to curb the power-hungry Executive. Yet this is the outcome sought by those who propose to attack the filibuster. At such times as these, the character of those leaders of this country is sorely tested. Our best leaders search for ways to avert such crises, not ways to accelerate the plunge toward the brink. Overheated partisan rhetoric is always available, of course, but the majority of Americans want a healthy two-party system built on mutual respect, and they want leaders who know how to work together. In fact, Americans admire most leaders who seek to do right, even when doing so does not prove politically advantageous in the short term.

The so-called nuclear option has been around for a long time. It didn’t require a genius to figure that one out. Any cabbagehead who fell off of a turnip truck could have done that. That is easy. It has been around since the cloture rule was adopted in 1917—yes, it call it the turnip truck option, not the nuclear option, not the constitutional option. It call it the turnip truck option. It could have been talked about and suggested by someone who fell off a turnip truck and got up and dusted himself off and got back on the truck and fell off the turnip truck again—so turnip truck No. 2. Let it be that.

The nuclear option, as I say, has been around for a long time, but previous leaders of the Senate and previous Presidents, previous White Houses, did not seek to foist this turnip truck option upon the Senate and upon the right of a minority to stop debate, just like our current majority leader. I say this respectfully. But Thomas Hart Benton angrily rebuked his colleague, Henry Clay, accusing Clay of trying to stifle the Senate’s right to unlimited debate. “There is no need to tamper with the Senate’s right of extended debate. It has been around for a long time. In 1806, the Senate left it out of the Senate’s rules. In the 1806 version of the Senate’s rules, “the previous question,” as it now is still being used in the House, “the previous question” was left out, left behind. It had only been used a few times prior to 1806. It was in the 1789 rules of the Senate, yes. It was in the rules of the Continental Congress, “the previous question.” It is in the rules of the British Parliament, yes. But the Senate, in 1806, decided, on the basis and upon the advisement of the Vice President of the United States, to keep it.

The text of the actual cloture rule, rule XXII, was not adopted by the Senate until 1917, the year in which I was born. Today, rule XXII allows the Senate to limit debate to 20 hours, what we call invoking cloture. I offered that resolution, to provide for a super-majority of 60 votes to invoke cloture. I believe it was 1975. That was a resolution which I introduced. So that is what we have today. But from 1919 to 1962, the Senate voted on cloture petitions only 27 times and invoked cloture only 5 times.

Political inventive and efforts to divide America along religious lines may distract the electorate for the moment, but if the Senate wants new policies and not seek to foist this turnip truck option, it could have been talked about and suggested by someone who fell off a turnip truck and got up and dusted himself off and got back on the truck and fell off the turnip truck again—so turnip truck No. 2. Let it be that.

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The President pro tempore of the Senate (Mr. Reid), who is dressed by this Government of ours. Poverty in these United States is rising, with 34 million people or 12.4 percent of the population living below the poverty level. Think of it. Our infant mortality rate is the second highest of the major industrialized countries of the world.

Yet we debate and we seek solutions to none—none—none of these critical problems. Instead, what do we focus on? We focus all energy—we sweat, we perspire, we weaken ourselves, we focus all energy on the frenzy over whether or not to confirm seven previously considered nominees who were not confirmed by the Senate in the 108th Congress. Doesn’t that seem kind of odd? Isn’t that kind of odd? That seems a bit irrational, doesn’t it, I say. Hear me. Maybe it sounds crazy. If I wanted to go crazy, I would do it in Washington because nobody would take notice, at least, so said Irving S. Cobb. Would anyone apply such thinking to their own lives? My colleagues, would you insist branch, two of the three coordinate branches, two of the three equal coordinate branches of Government, talking through the newspapers that it does not want to compromise?

I ask the Senate, please, I ask the Senate majority leader, please, I ask the Senator minority leader, please, I ask the White House.

I noticed the other day, I believe last Thursday, in the Washington Post—”I bring it with this. I noticed that the White House did not want to compromise on this matter. The White House did not want to compromise. Here we have the executive branch talking to the legislative branch, two of the three coordinate branches of Government, talking through the newspapers that it does not want to compromise.

I ask the Senate to take a moment today to reflect on the potentially disastrous consequences that could flow from invoking the so-called nuclear option. Anger will erupt. It may not be the next day or immediately. One may not see these things come about immediately, but in time they will come. They will come, they will come, they will come. Anger will erupt in the Chamber and it will be difficult to address real problems. If I beseech, I importune, I beg the Senate to consider how posterity will review such a significant occurrence, destroying 217 years of checks and balances established so carefully by the Founding Fathers 219 years ago. Will this maneuver shine favorably on the shattering of Senate precedent solely to confirm these seven nominees, nominees whose names have been before the Senate for consideration in the previous administration? Won’t this maneuver be viewed for what it really is, a misguided attempt to strong-arm the Senate for a political purpose driven by...
anger and raw ambition and lust for power? Will that be remembered as a profile in courage?

What has happened to the quality of leadership in this country that will allow us even to consider provoking a constitutional crisis of such magnitude?

I tell you, I am deeply, deeply troubled. I am almost sick about it, the frustration that I have had over thinking about this, this awful thing that is about to happen unless we draw back.

Have we lost our ability to look toward the larger good? Even a child is known by his doings, whether his work be pure and whether it be right. That is according to Proverbs, 20th chapter, 11th verse.

I seek the Senate to come together and to work toward a compromise. Yes, the Washington Post last Thursday said the White House doesn't want a compromise. But I beg the Senate, I beg those on the other side of the aisle and those on my side of the aisle to reach a compromise, work toward a compromise.

What the current majority seeks to employ against the minority today can be turned against the majority tomorrow.

John Adams once said:

Even mankind will, in time, discover that unbridled majorities are as tyrannical and cruel as unlimited despots.

Does not history prove as much? I ask the Senate to seek a compromise. Where is the gentle art of compromise? Edmund Burke onetated:

All government, indeed every human benefit and enjoyment, every virtue and every prudent act, is founded on compromise and barter.

Let the Senate step away from this abyss and see the wisdom of coming together to preserve the checks and balances. May we stop and draw back and remember that we are all Americans before we permanently damage this institution, the Senate of the United States, and in doing so, permanently damage the Constitution as we permanently damage this institution, the Senate of the United States, and the country we love.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, how much time remains on the minority?

The PRESIDING OFFICER. The minority controls 23 additional minutes.

Mr. BIDEN. Mr. President, my friends and colleagues, I have not been here as long as Senator BYRD, and no one fully understands the Senate as well as Senator BYRD, but I have been here for over 20 decades. This is the single most significant vote any one of us will cast in my 32 years in the Senate. I suspect the Senator would agree with that.

We should make no mistake. This nuclear option is ultimately an example of the arrogance of power. It is a fundamental power grab by the majority party, propelled by its extreme right and designed to change the reading of the Constitution, particularly as it relates to individual rights and property rights. It is nothing more or nothing less. Let me take a few moments to explain that.

Even Foulkes want to see this change want to see one of the procedural mechanisms designed for the express purpose of guaranteeing individual rights, and they also have a consequence, and would undermine the protections of a minority point of view that I laid out in the last period. We have been through these periods before in American history but never, to the best of my knowledge, has any party been so bold as to fundamentally attempt to change the structure of this body.

Why else would the majority party attempt one of the most fundamental changes in the 216-year history of this Senate on the grounds that they are being denied ten of 210 Federal judges, three of whom have stepped down? What shortsightedness, and what a price history will exact on those who support this radical move.

It is important we state frankly, if for no other reason than the historical record, the exact method is this: The extreme right of the Republican Party is attempting to hijack the Federal courts by emasculating the courts' independence and changing one of the unique foundations of the Senate; that is, the requirement for the protection of the right of individual Senators to guarantee the independence of the Federal Judiciary.

This is being done in the name of fairness? Quite frankly, it is the ultimate act of unfairness to alter the unique responsibility of the Senate and to do so by breaking the very rules of the Senate.

Mark my words, what is at stake here is not the politics of 2005, but the Federal Judiciary in the country in the year 2025. This is the single most significant vote, as I said earlier, that I will have cast in my 32 years in the Senate. The extreme Republican right has made Federal appellate Judge Douglas Ginsburg's "Constitution in Exile" their top priority.

It is their purpose to reshape the Federal courts so as to guarantee a reading of the Constitution consistent with Judge Ginsburg's radical views of the nondelegation doctrine, the 11th amendment, and the 10th amendment. I suspect some listening to me and some the press will think I am exaggerating. I respectfully suggest they read Judge Ginsburg's ideas about the Constitution in Exile. Read it and understand what is at work here.

If anyone doubts what I am saying, I suggest you ask yourself the rhetorical question, Why, for the first time since 1789, is the Republican-controlled Senate preparing to change the rule of unlimited debate, eliminate it, as it relates to Federal judges for the circuit court or the Supreme Court?

If you doubt what I said, please read what Judge Ginsburg has written and listen to what Michael Greve of the American Enterprise Institute has said:

I think what is really needed here is a fundamental intellectual assault on the entire New Deal edifice. We want to withdraw judicial support for the entire modern welfare state.

Read: Social Security, workmen's comp. Read: National Labor Relations Board. Read: FDA. Read: What all the byproduct of that shift in constitutional philosophy that took place in the 1930s meant.

We are going to hear more about what I characterize as radical view—maybe it is unfair to say radical—a fundamental view and what, at the least, must be characterized as a stark departure from current constitutional jurisprudence. Click on to American Enterprise Institute. Web site www.aei.org. Read what the do. Read what they do. Read what the purpose is. It is not about seeking a conservative court or placing conservative Justices on the bench. The courts are already conservative.

Seven of the nine Supreme Court Justices appointed by Republican Presidents Nixon, Ford, Reagan, Bush 1—seven of nine. Ten of 13 Federal circuit courts of appeal dominated by Republican appointees, appointed by Presidents Nixon, Ford, Reagan, Bush 1, and Bush 2; 58 percent of the circuit court judges appointed by Presidents Nixon, Ford, Reagan, Bush 1, or Bush 2. No, my friends and colleagues, this is not about building a conservative court. We already have a conservative court. This is about guaranteeing a Supreme Court made up of men and women such as those who sat on the Court in 1910 and 1920. Those who believe, as Justice Janice Rogers Brown of California does, that the Constitution has been in exile since the New Deal.

My friends and colleagues, the nuclear option is not an isolated instance. It is part of a broader plan to pack the court with fundamentalist judges and to cover existing conservative judges to toe the extreme party line.

You all heard what Tom DELAY said after the Federal courts refused to bend to the whip of the radical right in the Schiavo case. Mr. DELAY declared: "The time will come for men responsible for this to answer for their behavior."

Even current conservative Supreme Court Justices are looking over their shoulder, with one extremist recalling the despicable slogan of Joseph Stalin—and I am not making this up—in reference to judges appointed by a Republican appointee, Justice Kennedy, when he said: "No man, no problem"—absent his presence, we have no problem.

Let me remind you, as I said, Justice Kennedy was appointed by President Reagan.

Have they never heard of the independence of the judiciary—as fundamental a part of our constitutional
system of checks and balances as there is today; which is literally the envy of the entire world, and the fear of the extremist part of the world? An independent judiciary is their greatest fear.

Why are radicals focusing on the courts? Well, because they control every lever of the Federal Government. That is the very reason why we have the filibuster rule. So when one party, when one interest controls all levers of Government, one man or one woman can stand on the floor of the Senate and resist, if need be, the passions of the moment.

But there is a second reason why they are focusing on the courts. That is because they have been unable to get their agenda passed through the legislature. So they talk about it, they talk about the nuclear option, they talk about how they represent the majority of the American people, none of their agenda has passed as it relates to the fifth amendment, as it relates to the constitutional exile school, the group that wants to reinstate the Constitution as it existed in 1920, said of another filibustered judge, William Pryor that “Pryor is the key to this puzzle. That is why he is so radical that he is willing to let the minorities have their say.”

If it had not been for some of the things they had already done, nobody would believe what I am saying here. These guys mean what they say. The American people are going to soon experience how it is to be in absolute political control. It is like, why did Willy Sutton rob banks? You support. I have walked in your shoes, and I get it.

The American people see what is going on. They are too smart, and they are too sophisticated. They might not know the meaning of the nondelegation doctrine, they might not know the clause of the fifth amendment relating to property, they may not know the meaning of the tenth and eleventh amendments as interpreted by Judge Ginsburg and others, but they know that the strength of our country lies in common sense and our common pragmatism, which is antithetical to the poisons of the extremes on either side.

The American people will soon learn that Justice Janice Rogers Brown—one of the nominees who are not allowing to be confirmed, one of the ostensible reasons for this nuclear option being employed—has decried the Supreme Court’s “socialist revolution of 1937.” Read Social Security. Read what they write and listen to what they say. The very year that a 5-to-4 Court upheld the constitutionality of Social Security against a strong challenge, 1937—Social Security almost failed by one vote.

It was challenged in the Supreme Court as being confiscatory. People argued then that a Government has no right to demand that everyone pay into the system, demand that every employer pay into the system. Some of you may agree with that. It is a legitimate argument, but one rejected by the Supreme Court in 1937, that Justice Brown refers to as the “socialist revolution of 1937.”

If you think I am exaggerating, look at these Web sites. These are not a bunch of wackos. These are a bunch of very bright, very smart, very well-educated intellectuals who see these Federal restraints as a restraint upon competition, a restraint upon growth, a restraint upon the powerful.

The American people see what is going on. They are too smart, and they are too sophisticated. They might not know the meaning of the nondelegation doctrine, they might not know the clause of the fifth amendment relating to property, they may not know the meaning of the tenth and eleventh amendments as interpreted by Judge Ginsburg and others, but they know that the strength of our country lies in common sense and our common pragmatism, which is antithetical to the poisons of the extremes on either side.

Ladies and gentlemen, the nuclear option is about maintaining our civil rights protections, about workplace safety and worker protections, about effective oversight of financial markets, and protecting against corruption. It is about Social Security. What is really at stake in this debate is, point blank, the shape of our constitutional system for the next generation.

The nuclear option is a twofer. It excises, friends, our courts and, at the same time, emasculates the Senate. Put simply, the nuclear option would transform the Senate from the so-called cooling saucer our Founding Fathers talked about to cool the passions of the day to a pure majoritarian body like a Parliament. We have heard a lot in recent weeks about the rights of the majority and obstructionism. But the Senate is not meant to be a place of majoritarian logic. Vice President Gore won the election. Republicans control the Senate, and they have decided they are going to change the rule. At its core, the filibuster is about stopping a nominee or a bill; it is about compromise and moderation. That is why the Founders put a limited number of senators that you have to—and I have never conducted a filibuster—but if I did, the purpose would be that you have to deal with me as one Senator. It does not mean I get my way. It means you may have to compromise. You may have to see my side of the argument. That is what it is about, engendering compromise and moderation.

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rights. My State, to its great shame, was segregated by law, was a slave State. I came here to fight it. But even I understood, with all the passion I felt as a 29-year-old kid running for the Senate, the purpose—the purpose of extended debate. Getting rid of the filibuster is an isolated or an isolated victory. If there is one thing I have learned in my years here, once you change the rules and surrender the Senate's institutional power, you never get it back. And we are about to break the rules to change the Senate.

I do not want to hear about "fair play" from my friends. Under our rules, you are required to get 2/3 of the votes to change the rules. Watch what happens when the majority leader stands up and says to the Vice President—if we go forward with this—he calls the question. One of us, I expect our leader, on the Democratic side will stand up and say: Parliamentary inquiry, Mr. President. Is this parliamentary? Is it parliamentary? In every other case since I have been here, for 32 years, the Presiding Officer leans down to the Parliamentarian and says: What is the rule, Mr. Parliamentarian? The Parliamentarian turns and tells them. How? Parliamentary. He is not going to look to you because he knows what you would say. He would say: This is not parliamentary. You cannot change the Senate rules by a pure majority vote.

So I think I am going to be Sergating, watch on television, watch when this happens, and watch the Vice President ignore—he is not required to look to an unelected officer, but that has been the practice for 218 years. He will not look down and say: What is the ruling? He will make the ruling, which is a lie, a lie about the rule.

Isn't what is really going on here that the majority does not want to hear what others have to say, even if it is the senator from Oklahoma, my good friend who I served with for years, said: You are entitled to your own opinion but not your own facts.

The nuclear option abandons America's sense of fair play. It is the one thing this country stands for: Not tilting the playing field on the side of those who control and own the field.

I say to my friends on the Republican side: You may own the field right now, but you won't own it forever. I pray God when the Democrats take back control, we don't make the kind of naked power grab you are doing. But I am afraid you will teach my new colleagues, the ones who control and own the field.

We are the only Senate in the Senate as temporary custodians of the Senate. The Senate will go on. Mark my words, history will judge this Republican majority harshly, if it makes this catastrophic move.

Mr. President, I ask unanimous consent that the full text of my statement as written be printed in the RECORD. As written be printed in the RECORD.

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THE FIGHT FOR OUR FUTURE: THE COURTS, THE UNITED STATES SENATE, AND THE AMERICAN PEOPLE

INTRODUCTION

Make no mistake, my friends and colleagues, this is the ultimate example of the arrogance of power. It is a fundamental power grab by the Republican Party propelled by its extreme right and designed to change the character of the Senate, particularly as it relates to individual rights and property rights.

Nothing more, nothing less.

It is the elimination of one of the procedural mechanisms designed for the express purpose of guaranteeing individual rights and the protections of a minority point of view in the Senate.

Why else would the majority party attempt such a fundamental change in the 216 year history of this Senate on the grounds that they are being denied seven of 216 federal judges?

What shortsightedness and what a price history will exact on those who support this radical move.

Mr. President, we should state frankly, if for no other reason than an historical record, why this is being done. The extreme right of the Republican Party is attempting to hijack the federal courts by emanculating the courts' independence and changing one of the unique foundation principles of the Senate—the requirement for the protection of the right of individual Senators to guarantee the independence of the federal judiciary.

This is being done in the name of fairness. But it is the ultimate act of unfairness to alter the unique responsibility of the United States Senate and to do so by breaking the very rules of the United States Senate. Mark my words. What is at stake here is not the politics of 2005, but the federal judiciary and the United States Senate of 2025.

It is the most significant vote that will be cast in my 32-year tenure in the United States Senate.

THE FUTURE OF OUR COURTS

The extreme Republican Right has made Judge Douglas Ginsberg's "Constitution in Exile" framework their top priority. It is their extreme purpose to reshape the federal courts so as to guarantee a reading of the Constitution consistent with Judge Ginsberg's radical views of the 5th Amendment, Takings Clause, the non-delegation doctrine, the 11th Amendment, and the 10th Amendment.

If you doubt what I say then ask yourself the following rhetorical question: Why for the first time since 1788 is the Republican controlled United States Senate attempting to do this?

If you doubt what I say, please read what Judge Ginsberg has written. And listen to what Michael Greve, of the American Enterprise Institute has said: "what is really needed here is a fundamental intellectual assault on the entire liberal Deal edifice. We want to withdraw judicial support for the entire modern welfare state."

If you want to hear more about what I am characterizing as the radical view and what must certainly be characterized as a stark departure from current constitutional law, click on the American Enterprise Institute's website www.aei.org.

This is not about seeking a conservative court and placing conservative judges on the bench.

The courts are already conservative: 7 of 9 current Supreme Court Justices, appointed by Presidents Nixon, Ford, Reagan, Bush I; 10 of 13 federal circuit courts appointing judges have conservative appointees, appointed by Presidents Nixon, Ford, Reagan, Bush I, and Bush II; and 58 percent of all circuit court judges, appointed by Presidents Nixon, Ford, Reagan, Bush I and Bush II.

No, friends and colleagues, this is not about building conservative courts. We already have them. The Supreme Court made up of men and women like those who sat on the Court in 1910, 1920.

My friends and colleagues, the time for opining on an isolated victory is over. It's part of a broader plan to pack the courts with fundamentalist judges and to cower existing conservative judges to toe the party line.

I have heard what Tom DeLay said after the federal courts refused to bend to the whip of the Radical Right in the Schiavo Case: "DeLay declared."

"The time will come for the men responsible for this to answer for their behavior."

Even current conservative Supreme Court Justices are looking at the clock. One extremist has referred to Justice Kennedy by recalling a despicable slogan attributed to Joseph Stalin. When Stalin encountered a problem with an individual, he would simply say "no man, no problem." The extreme right is adapting Stalin's adage in their efforts to remove sitting judges: "no judge, no problem."

And let me remind you, Kennedy was appointed by President Reagan.

Have these people never heard of the independence of the judiciary? The independence of the judiciary is a fundamental part our constitutional system of checks and balances as there is: the envy of the world; the system that emerging democracies are chasing to copy? You must ask yourself why the fundamentalist Republican Right is focusing so clearly on the federal courts? I'll tell you why.

Because they are because they are sure their agenda through the political branches of our government. And why they are trying to move their agenda by fundamentally changing the courts.

I believe that the American people already intuitively know what's going on; they're too smart; they're too practical. The strength of our country lies in our common sense and our pragmatism, which is antithetical to the ideological purity of the fundamentalist Republican Right.

The American people will soon learn that Janice Rogers Brown has declared the Supreme Court's "socialist revolution of 1937," also the very year that a 5-4 Court upheld the constitutionality of Social Security against strong challenges.

The American people will soon learn that one of the leaders of the "Constitution in Exile" school—the group that wants to reinstate the Constitution as it existed in the 1920s—said that another of the filibustered judges—William Pryor—was "key to this puzzle; there's nobody like him. I think he's sensational. He gets almost all of it."

And along the way these judges are able to pack the federal circuit courts of appeal for a quarter of a century. And no general election of Congress and the President will be able to change this.

And you may ask yourself why the focus on the circuit courts? I'll tell you why.

Today, it is more than four times as difficult to get an opportunity to argue your appeal before the Supreme Court as it was 20 years ago. Today, the Supreme Court reviews less than two tenths of one percent of the caseload of the appeals courts.

Without the filibuster, President Bush will be able to put on the bench judges who would replace the "Constitution in Exile." I suggest that it is these judges who are the ones who should be exiled.

And if the actuarial tables comply there is the possibility that President Bush will possibly nominate as many as 3-4 Supreme Court Justices—and there will be little that
my moderate Republican friends and I will be able to do about it.

The consequences for average Americans will be significant. They will include the ability of others to deny you your rights; the ability to keep strip clubs out of your family’s neighborhood; the ability to protect from environmental degradation the land you own or on which you breathe; the cleanliness of the air you breathe; and the ability to preserve the privacy that you and your family expect the Constitution to protect.

The fight over judges, at bottom, is not about abortion and about God; it is about giving greater power to the already powerful.

THE FUTURE OF THE SENATE

The exercise of the nuclear option also has another fundamental impact on the government— it will transform the Congress from a bifurcated legislature where political parties were never intended to rule supreme into a quasi-parliamentary system where a single party will dominate. There would have been no Constitution were it not for the Connecticut Compromise—that is the compromise that guaranteed states two U.S. Senators regardless of the state’s population. The Connecticut Compromise was also done expressly to guarantee the right of the small states, as well as less powerful interests, as well as individuals, to be protected from a presidential and excesses of the moment—whether borne out of a demagogic appeal or the overwhelming supremacy of a political party. The guarantees of unlimited debate in the United States Senate assured not that the minority would be able to get its way but that the minority would be able to generate a compromise that would keep them from being emasculated. And this included ensuring the independence of the federal judiciary. We have heard a lot in recent weeks about the rights of the majority. But the Senate was not meant to be a place of pure majoritarianism. Is majority rule what this is about? Do my Republican colleagues really want majority rule?

We 44 Democrats represent 161 million people in the Senate; the 55 Republicans only 131 million. By majoritarian logic, the Democrats and their electoral mandate controls the Senate, to determine how we want to conduct Senate business.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum be discharged.

Mr. BIDEN. I yield the floor and suggest the absence of a quorum.

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He was not the first to make this argument. We have heard for a long time now from many Senators who support these filibusters that the Senate rejects a nomination not when the majority has voted it down but when the minority has prevented a final confirmation vote, even though there is a bipartisan majority for the nominee. I should say in this case nominees.

The minority does not check the President’s power. The Senate itself does. And that means a majority of Senators checks the President’s power. When the minority has prevented a confirmation vote, the minority has prevented the Senate from exercising its role of advice and consent altogether. I do not speak primarily of the majority or minority party. I speak of the numerical majority that is required in order for the Senate to act at all. The vast majority of judicial nominations are confirmed either by unanimous consent or by overwhelming margins on rollover votes. The number of truly controversial, hotly contested judicial nominations is small. Still at least once this year, the Senate has voted against a judicial nomination of their own party.

And if the case against some of these nominees is so strong—and we have heard a great hue and cry about how some of them are out of some sort of mainstream—then Senators may do so again. But the prospect of being on the losing side of a small number of confirmation votes does not justify turning all judges of separation of powers inside out. It does not justify the minority hijacking the Senate’s role of advice and consent so it can hijack the President’s power to appoint judges.

Yet that is indeed what these filibusters are attempting to do. Defeating a vote to end debate can serve a laudable, temporary purpose of ensuring that a full and vigorous debate can help the Senate make a more informed confirmation decision. But these recent unprecedented, leader-led filibusters defeat all votes to end debate for the purpose of preventing the nomination of nominees altogether. Doing so turns the separation of powers on its head.

Mr. President, the frame of reference, the organizing principle for evaluating these judicial filibusters is the separation of powers. I think the case is compelling that the judicial filibuster campaign underway today, by which the minority tries to commandeer the Senate’s role of advice and consent so they can wrongly attempt to trump the President’s constitutional authority to appoint judges, violates that principle and cannot be allowed to continue.

If the minority will not relent and return to the tradition by which the Senate, through a majority, exercises its role of advice and consent, then I believe the majority must act to restore that tradition. The frame of reference for solving this judicial filibuster crisis is the Senate’s constitutional authority to determine our own rules and procedures.

As I have discussed before in the Senate, this mechanism might better be called the Byrd rule. The Byrd rule, named for the late Senator Byrd of West Virginia, provides that the majority leader, subject to certain constraints, can change the rules. When a Senator asks the question of procedure or raises a point of order, the majority leader, if he deems the question of order to be well founded, can invite a ruling by the Presiding Officer, which is the Presiding Officer of the Senate. The Presiding Officer’s determination as to whether a Senator’s question of order is well founded is final and binding on all Senators. As it happens, since 1975, the Senate has changed its rules a total of 17 times, including the Byrd rule.

The Byrd rule allows the majority leader, in consultation with the minority leader, to change the rules of the Senate to expedite legislative business. The Byrd rule is not a new rule, nor is it a new concept, but it is a new application of an established rule in the Senate to a new situation.

The Byrd rule allows the majority leader to change the rules of the Senate by a simple majority vote of the Senate, subject to a filibuster. If a Senator objects to a change in the rules, he can prevent the majority leader from changing the rules by filibustering. If a Senator filibusters an attempt to change the rules, the majority leader can end the filibuster by invoking cloture. As I have said, cloture requires only a majority of the Senators present and voting to end debate. The majority leader can therefore change the rules to prevent filibusters.

The Byrd rule, then, is a mechanism by which the majority leader can change the rules of the Senate to expedite legislative business. It is a mechanism by which the majority leader can stop filibusters and prevent the minority from using the filibuster to delay legislation.

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describe in the next few minutes, I believe my friend from West Virginia doth protest too much.

In 1977, for example, then-Majority Leader Byrd used this mechanism to eliminate what was called the postoffice war, a filibuster for the Senate to vote to invoke cloture on a bill. Rule XXII imposed a 1-hour debate limit on each Senator. Senators could get around that limit, however, by introducing and debating amendments. Rule XXII allowed this practice, but the majority leader opposed it—Byrd. He made a point of order against it, the Presiding Officer ruled in his favor, and a simple majority of Senators voted to back up the ruling.

Nearly two decades later, the Senator from West Virginia reflected on how he used the Byrd option in 1977. Let me refer to the chart. He described it this way:

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 was here, by the way. To continue: I asked Mr. Mondale, the Vice President, to go to the chair. I wanted to make some points of order and create some new precedents that would break these filibusters. And the filibuster was broken—back, neck, legs, so I know something about filibusters. I helped to set a great many of the precedents that are in the books here.

So don’t say we are trying to change the rules. I simply am following the Byrd rule that was set four times as he was majority leader. He changed Senate procedures without changing Senate rules.

The Senator from West Virginia did it again in 1979. Rule XVI explicitly states that the Senate itself must decide whether amendments to appropriations bills are germane. Then-Majority Leader Byrd made a point of order that the Presiding Officer may decide that question instead. The Presiding Officer ruled in his favor and a majority of Senators voted to affirm the ruling. Once again, a parliamentary ruling changed Senate procedures without changing Senate rules.

It happened again in 1980. As we have discussed, rule XXII requires 60 votes to invoke cloture on a bill. It has never been about the length of debate, or about filibusters. It has never been about the length of the debate. It has been about the length of the debate. It has been about the length of the debate. It has been about the length of the debate.

Mr. President, this chart shows that seven Democratic Senators serving in this body today voted to eliminate those nomination-related filibusters. They proved not only that the Byrd option is legitimate, but also that it can be used to limit debate. I leave it to these Senators to explain how they could vote to eliminate nomination-related filibusters today.

This 1980 example is particularly relevant because it utilized a parliamentary ruling to change Senate procedures without changing Senate rules is a well-established method for those majority leader, Senator Frist, utilize it, he will be on solid ground. He will simply be relying upon the precedent that his predecessor, Senator Byrd, helped put on the books. If the majority leader does utilize the Byrd option, nobody will be able to guess, let alone charge, he is doing so precipitously. He has been patient, methodical, and even cautious when it comes to this important matter. Far from the image of trigger-happy warriors being used in some interests ads out there, the majority leader will utilize the Byrd option only after trying every conceivable alternative first, and he has done so.

The minority has had every opportunity to do what it says it wants to do; namely, debate those nominations. The nominees being filibustered, for example, include Texas Supreme Court Justice Priscilla Owen, whom I understand to be a conservative organization, and the oppressed should win no matter what the law says. That is all you can ask of a judge.

The Judiciary Committee has more than once approved her nomination, and the President confirmed her. But rather than give her a fair vote, those fearing they will lose are blocking it with a filibuster.

On April 8, 2003, Senator Bennett, my colleague from Utah, asked the then-assistant minority leader, Senator Reid, how much time the Democrats would require to debate the nomination fully. This is what he said:

There is not a number of hours in the universe that would be sufficient [to debate this nomination].

They did not want to debate Justice Owen, they wanted to defeat her. Debate was not a means to the end of exercising advice and consent. It was an end in itself to prevent exercising advice and consent. The majority leader has made offer after offer after offer of more and more time, hoping that the tradition of full debate with an up-or-down vote would prevail. That hope is fading, as Democrats have rejected every single offer. Last month, the minority leader admitted that “this has never been about the length of the debate.” That is what the minority leader said. It has never been about the length of the debate. That was said April 28, 2005.

Unanimous consent is in the Senate. This is a common way we structure how we consider bills and nominations. Because the Democrats rejected that course, Majority Leader Frist was forced to turn in March 2003 from seeking unanimous consent to the more formal procedure of motions to invoke cloture. During the 108th Congress, we took 20 cloture votes on 10 different appeals court

I mention Justice Owen as an example, though her opponents use the same tactics against nominee after nominee. They claim that Justice Owen is what they call an extremist, or outside of the mainstream, most often by tallying up winners and losers in her judicial decisions. They see often on this side in criminal cases, too often on that side in civil cases, not enough for this or that political interest.

Whether Justice Owen is a liberal, whether anybody considers her inside or outside of some kind of mainstream, these may be reasons to vote against her confirmation, not to refuse to vote at all. By the way, we have Senators on the Judiciary Committee—Democratic Senators—who believe that any business ought to be automatically found against, even if they are right under the law, that anybody who may be an unfortunate person ought to be found for even though they are wrong in the law.

That is not the way the law works. They criticize Justice Owen because, even though she has upheld the weak and the oppressed in many decisions in the Texas Supreme Court, she has upheld the law sometimes to the lap of those who need the law and oppressed should win no matter what the law says. That is all you can ask of a judge.

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nominations. More than 50, but fewer than 60 Senators supported every one of these motions.

In other words, there was bipartisan support for a vote up or down for each of those nominees. That was enough to confirm them and end debate under the filibuster rules, misapplied here. The circle was complete, and the minority’s strategy of using the filibuster to prevent confirmation of majority-supported judicial nominations was in full swing. Still the majority leader insisted the general rules apply. The Democrats called to implement a deliberate solution to this unprecedented, unfair, and, frankly, outrageous filibuster blockade.

The election returns provided more evidence that the American people oppose using the filibuster to prevent fair up-or-down votes on judicial nominations. But hope that the voice of those we serve would change how we serve was soon shattered. The minority made clear they would continue their filibuster campaign.

The minority can say this is a narrow effort focused on a few appeals court nominees. It is not. This is about the entire judicial confirmation process. It is about a process so the minority can do what only the majority may legitimately do in our system of Government: determine how the Senate exercises its role of advice and consent.

It is the Constitution, not the party line or interest group pressure, not focus groups or interest group ad campaigns, that should guide us here. I have been told, for example, and I hope it is not true, that my friend from Nevada, the minority leader, may appear in a television ad created and paid for by the Alliance for Justice, one of the rabid leftwing groups involved in this obstruction campaign. I hope he will not do that, I think that would be regrettable. They are part of the problem here. They have virtually been against anybody for the circuit courts of appeal and many of the former nominees for the Supreme Court of the United States of America.

The Constitution assigns the nomination and appointment of judges to the President, not to the Senate. The Senate checks that power by deciding whether to consent to appointment of the President’s nominees. We exercise this role by voting on confirmation. As such, it is designed to prevent confirmation of majority-supported judicial nominations undermine the separation of powers.

The Constitution helps us both evaluate the problem and highlight the solution. The Constitution gives the Senate authority to determine how we will do our business. That includes not only our written rules but also parliamentary precedents that change procedures without changing those rules.

Our colleagues have had literally dozens of opportunities to return to our confirmation tradition of up-or-down votes for judicial nominations reaching the Senate floor. They have chosen the path of confrontation rather than that of cooperation. They exercised the true nuclear option by blowing up two centuries of tradition. If the majority leader utilizes the Byrd option, it will truly be as a last resort, and will represent a means of solving an unconstitutional problem.

I go back in time because I was here when Senator Byrd was the minority leader. He had a tremendous majority of Democrats on the floor. When Ronald Reagan was President, he had never once used the filibuster to stop Ronald Reagan’s nominees, even though some of those nominations gave him and other Democrats tremendous angst. He utilized the power to vote against them. Whether he is right or wrong is almost irrelevant here. The fact is that he did what 214 years of Senate tradition required: he allowed those nominees to go ahead and have a vote. And, after all, that is what we need to do here.

What is wrong with giving these circuit courts of appeal nominees who have bipartisan support and the support of the American Bar Association simple up-or-down votes? If you do not agree with them, you have the right and power to vote against them, and that is the proper way to handle it. Let’s not throw 214 years of tradition down the drain and, of course, let’s not blow up the Senate if we do not get our way.

Mr. President, I notice the distinguished Senator from Montana is here. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank my good friend from Utah. He laid out in pretty logical form what is at stake. I have come to the Senate floor today to talk on an issue about which I seldom speak on this floor. I come to lend my voice, my vote, and this impasse in which we find ourselves.

The Senate has dwelt and droned for endless hours with at times very inflammatory language of which some of us have demonstrated that they respect the rule of law. They are committed to interpreting and applying the law as it relates to the Constitution of the United States of America. Those folks who want to say this is a constitutional amendment, let’s take a look at article II, section 2, and read what it says.

The American people should know that for more than 200 years, the rule for confirming judges has been fair on an up-or-down vote. In the heart of every American I know, there is a common sense of fairness. These good people being nominated by President Bush are, at the very least, entitled to receive a vote. Whether you disagree or agree with the particular person being nominated for a judgeship, it is incumbent on this legislative body to provide full and fair open debate on the nomination and to then allow proper democratic procedures to take place.

We have heard words such as “rubberstamp.” I do not think you could say that. Were majority leaders such as Howard Baker and Everett Dirksen and majority leaders such as ROBERT C. BYRD and Bob Dole rubberstamp Senators? I do not think so. I have heard the talk of the radical right. I wonder if they are even left also that grabs the ears of some folks.

Let there be no doubt about this issue—it is as clear as a Montana
morning. It is obstructionism that has caused this crisis that looms over us today.

During the 108th Congress, 10 judicial nominations were either filibustered or threatened the use of filibuster, and 6 other nominations were blocked by the Democrats’ filibuster. Four of these nominations were supported by Senators of both parties and opposed only by a partisan minority. In fact, Judge Owens has received four votes in the Senate and she carried the vote each time. Yet she is not on the Fifth Circuit Court of Appeals.

Look at William Myers. The President nominated the former Solicitor of the Interior Department for the Ninth Circuit. Mr. Myers, a distinguished attorney, is a nationally recognized expert in the area of natural resources and land use law. However, despite his long service as National Park Service volunteer and a lifetime of respect and enjoyment of the outdoors, the other side held his previous clients’ positions against him and accused him of being hostile to the environment, therefore blocking his nomination and taking away the Senate’s responsibility to give him a vote.

We have all heard about Priscilla Owen of Texas. She has already been voted on four times in this body and carried the vote every time. Janice Rogers Brown, a California Supreme Court justice, was nominated to the DC Circuit. The first African American to serve on the California high court, Justice Brown received public support of 76 percent of California voters.

I think many friends of Pennsylvania law say they have 2 Senators from Pennsylvania, and they each represent over 17 million people. She represented the whole State and got 76 percent. Yet she was denied a vote on this floor.

William Pryor. Judge Pryor, has been serving with distinction on the Eleventh Circuit since the President gave him a recess appointment in February of 2004. Previously, he served 6 years as an Alabama judge. Although he repeatedly demonstrated his ability to follow the law, he has been blocked by the Democrats’ filibuster because he has “deeply held” beliefs, taking away the Senate’s responsibility to vote for him.

One of the country’s rising stars in the judicial world, Miguel Estrada, could be described as the finest, the best, and the brightest among his peers. This Honduran immigrant who went to Harvard Law School and clerked for the Supreme Court was debated on this Senate floor for more hours than any other judicial nomination in Senate history. After cloture votes were failed, he asked the President to withdraw his name from consideration, thereby allowing the other side to prevent the DC Circuit from having a very talented jurist to interpret and apply the law, again taking away our responsibility to vote for him.

What are we doing here? Are we dumming down the judiciary when the best and the brightest have offered themselves to serve after they were nominated by this President?

Now we are faced with finding a solution to this so-called crisis. They have already admitted that the filibuster is not about the qualification of the judges. They just do not want these judges. They just do not want judges appointed to the court by President Bush. So if we allow this to continue, it will be acquiescing to the partisan minority’s unilateral change in the Senate’s practice for the last 20 years, a 60-vote requirement to confirm judges when only a simple majority up-or-down vote has been the standard of practice in this Senate for a long time, and is also alluded to in the Constitution of the United States.

I would say the Constitution trumps any rule that we may make, that we put in place here for our rules of procedures and conduct. I think the Constitution trumps them. Now we find ourselves in this crisis. No more time. Now is the time to vote.

The Senate has demonstrated in the past that it need not stand by and allow a minority to redefine the traditions, rules, practices and procedures of the Senate.

The Constitution gives the Senate the power to set its own rules, procedures, and practices, and the Supreme Court has affirmed the continuous power of a majority of members to do so.

The exercise of a Senate majority’s constitutional power to define Senate practices and procedures has come to be known as the “constitutional option.”

The constitutional option can be exercised in several different ways, such as by creating precedents to effectuate the amendment of Senate Standing Rules or by creating precedents that address abuses of Senate customs by a minority of Senators. Regardless of the variant, the purpose of the constitutional option is the same—to reform Senate practices in the face of unforeseen abuses.

An exercise of the constitutional option under the current circumstances would return the Senate to the historic and constitutional confirmation standard of a simple majority for all judicial nominations.

Employing the constitutional option here would be consistent with the legislative filibuster because virtually every Senator would oppose such an elimination. Instead, the constitutional option’s sole purpose would be the restoration of longstanding constitutional standards for advice and consent.

For more than 200 years, the rule for confirming judges has been a fair, up-or-down vote.

For over 200 years, the Senate has honored both the minority’s right to debate and the full Senate’s right to vote on judicial nominees. No other minority leader in American history has claimed that the right to debate equals the right to prevent the full Senate from exercising its constitutional duty to advise and consent.

For over 200 years, Senators did not filibuster judicial nominees. Was the Senate just a rubber stamp for its first 200 years? Did everyone agree the 108th Congress fail to carry out its constitutional duty to advise and consent? The answer is a resounding “no.”

Further, for 76 percent of the twentieth century, the same party controlled both the White House and the Senate, yet Minority Leaders on both sides of the aisle did not filibuster the President’s judicial nominees.

The choice is now between being a rubber stamp or filibustering a judicial nominee. For over 200 years, Senators agreed that the proper way to oppose a judicial nominee is to vote “no.” They went to the floor and explained why they opposed the nominee. They tried to persuade their colleagues. They tried to persuade the American people. Then, they voted no. They did not filibuster or threaten to shut down the U.S. Senate.

Until now, every judicial nominee with support from a majority of Senators was confirmed. The majority-vote standard was used consistently throughout the 18th, 19th and 20th centuries—for every administration until President George W. Bush’s judicial nominations were subjected to a 60-vote standard.

These good people, being nominated by President Bush, are the very least entitled to receive a vote.

Whether you agree or disagree with the particular person being nominated for a judgeship, it is incumbent on this great legislative body to provide full, fair and open debate on the nomination and to then allow the proper democratic procedures to take place.

The Senate has demonstrated in the past that it need not stand by and allow a minority to redefine the traditions, rules, practices and procedures of the Senate.

The Constitution gives the Senate the power to set its own rules, procedures, and practices. The Supreme Court has affirmed the continuous power of a majority of members to do so.

Because of this partisan minority, because of this obstructionism and because of the partisan minority’s continued actions to take away the Senate’s duty and responsibility to vote on the nominations before this great body, we face a crisis that has only 2 remedies:

Either the partisan minority allow the Senate to fulfill its duty and responsibility to vote on President Bush’s judicial nominations by not continuing to invoke the filibuster.

Or, the Senate must invoke the necessary and requisite constitutional option to prevent the tyranny of the minority and the radically altering of longstanding traditions of the United States Senate.

Accordingly, I rise today to strongly urge my colleagues to stop the obstructionism and to allow President Bush’s
judicial nominations receive a fair, up-or-down vote and, therefore, to allow this great legislative body to carry out its constitutional duty of advice and consent—a responsibility that we, as Senators, have been duly elected to uphold by the American people.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928b, as amended, appoints the following Senator as Acting Vice Chairman to the NATO Parliamentary Assembly for the spring meeting in Ljubjana, Slovenia, May 2005: the Honorable Patrick Leahy of Vermont.

WELCOMING HIS EXCELLENCY HAMID KARZAI, THE PRESIDENT OF AFGHANISTAN

Mr. BURNS. I ask unanimous consent the Senate now proceed to consideration of S. Res. 152, which was submitted earlier today.

The PRESIDING OFFICER. The resolution (S. Res. 152) was agreed to.

The resolution (S. Res. 152) was agreed to.

The resolution, with its preamble, reads as follows:

WHEREAS Afghanistan has suffered the ravages of war, foreign occupation, and oppression;

WHEREAS following the terrorist attacks of September 11, 2001, the United States launched Operation Enduring Freedom, which helped to establish an environment in which the Afghan people can build the foundations for a democratic government;

WHEREAS, on January 4, 2004, the Constitutional Loya Jirga of Afghanistan adopted a constitution that provides for equal rights for full participation of women, mandates full compliance with international norms for human and civil rights, establishes procedures for free and fair elections, creates a system of checks and balances between the executive, legislative, and judicial branches, encourages a free market economy and private enterprise, and obligates the state to prevent terrorist activity and the production and trafficking of narcotics; and

WHEREAS, on October 9, 2004, approximately 8,400,000 Afghans, including nearly 3,500,000 women, voted in Afghanistan’s first direct Presidential election at the national level, demonstrating commitment to democracy, courage in the face of threats of violence, and a deep sense of civic responsibility;

WHEREAS, on December 7, 2004, Hamid Karzai took the oath of office as the first democratically elected President in the history of Afghanistan;

WHEREAS nationwide parliamentary elections are planned in Afghanistan for September 2005, further demonstrating the Afghan people’s will to live in a democratic state, and the commitment of the Government of Afghanistan to democratic norms;

WHEREAS the Government of Afghanistan is committed to halting the cultivation and trafficking of narcotics and has pursued, in cooperation with the United States and its allies, a wide range of counter-narcotics initiatives;

WHEREAS the United States and the international community are working to assist Afghanistan’s counter-narcotics campaign by supporting programs to provide alternative livelihoods for farmers, sustainable economic development, and capable Afghan security forces; and

WHEREAS, on March 17, 2005, Secretary of State Condoleezza Rice said of Afghanistan “this country was once a source of terrorism; it is now a steadfast fighter against terrorism. There could be no better story than the story of Afghanistan in the last several years and there can be no better story than the story of American and Afghan friendship. It is a story of cooperation and friendship that will continue and grow. We have a long-term commitment to this country”;

NOW, therefore, be it

Resolved, That the Senate—

(1) welcomes, as an honored guest and valued friend of the United States, President Hamid Karzai on the occasion of his visit to the United States as the first democratically elected President of Afghanistan scheduled for May 21 through 25, 2005;

(2) supports a democratic, stable, and prosperous Afghanistan essential to the security of the United States; and

(3) supports a strong and enduring strategic partnership between the United States and Afghanistan as a primary objective of both countries to advance their shared vision of peace, freedom, security and broad-based economic development in Afghanistan, the broader South Asia region, and throughout the world;

STATE CRIMINAL ALIEN ASSISTANCE PROGRAM REAUTHORIZATION ACT OF 2005

Mr. President, I ask unanimous consent the Senate now proceed to immediate consideration of Calendar No. 56, S. 188.

The PRESIDING OFFICER. The resolution will report the bill by title.

The assistant legislative clerk read the third time and passed, as follows:

A bill (S. 188) to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2005 through 2011.

ORDER OF PROCEDURE

Mr. BURNS. I ask unanimous consent the Feinstein amendment at the desk be agreed to, the bill as amended be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 763) was agreed to, as follows:

(Purpose: To require that certain funds are used for correctional purposes)

At the end add the following new section:

SEC. 2. LIMITATION ON USE OF FUNDS.

Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1225(i)(5)) is amended to read as follows:

“(6) Amounts appropriated pursuant to the authorization of appropriations in paragraph (5) that are distributed to a State or political subdivision of a State, including a municipality, may be used only for correctional purposes.”.

The bill (S. 188), as amended, was read the third time and passed, as follows:

S. 188

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 “State Criminal Alien Assistance Program Reauthorization Act of 2005”.


Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1225(i)(5)) is amended by striking “appropriated” and all that follows through the period and inserting the following: “appropriated to carry out this subsection—

“(A) such sums as may be necessary for fiscal year 2005;”

“(B) $750,000,000 for fiscal year 2006;”

“(C) $850,000,000 for fiscal year 2007;” and

“(D) $950,000,000 for each of the fiscal years 2008 through 2011.”.

SEC. 3. LIMITATION ON USE OF FUNDS.

Section 241(i)(6) of the Immigration and Nationality Act (8 U.S.C. 1225(i)(6)) is amended to read as follows:

“(6) Amounts appropriated pursuant to the authorization of appropriations in paragraph (5) that are distributed to a State or political subdivision of a State, including a municipality, may be used only for correctional purposes.”.
Mr. KOHL. Mr. President, as passions rise higher and higher here in the Senate, I come to the floor today to urge that cooler heads prevail; to urge that the nuke option be cast aside. They are contemplating; to urge that we step back from the cliff we are approaching, before it is too late.

We have all heard the arguments for and against this nuclear option that has been dubbed “the nuclear option.” I will not reiterate those arguments here. But as someone who came to the Senate to get things done for real people, I have some experience trying to reach compromise on difficult issues.

The heart of compromise is well known: one side cannot have all that they want. Yet the essence of the so-called “nuclear option” is just that— one side wins, one party wins, one majority wins full power over who will sit on the Federal bench. The other side—the other party, the minority—is left powerless, silenced by a new rule that strips the minority of all power over judges. We all know that such an outcome is wrong in terms of undermining the fairness of the judicial system, wrong in terms of harming this institution and it is wrong for this country—wrong in terms of protecting the rights of the American people, wrong in terms of undercuts the independence of and public support for an independent Federal judiciary. But especially it is wrong in unilaterally destroying minority protections in the Senate in order to promote one-party rule, something this Senate has never known and has never wanted.

I have served in the Senate for almost 31 years. During that time, several times the Democrats were in charge of the Senate—a majority. Several times the Republicans were. The hallmark of every leader, Republican or Democratic, was that the special minority protections of the Senate would remain. No matter who was in the majority, they believed they had as their obligation protecting the rights of the minority because that is what the Senate is all about. Every Senate majority leader took as his trust to make sure that whatever the Senate had at least the strengths it had when he took over.

Today, 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 the Republican leadership seem so insistent on demanding. It will take at least six Republicans standing up for fairness and for checks and balances. I know a number of Senators on the other side of the aisle know in their hearts that this nuclear option is the wrong way to go.

Senators on both sides of the aisle have called for the vote on the nuclear option to be one of principle rather than one of party loyalty, and for this to be a vote of conscience. I agree. To ensure that it is, I urge both the Republican leader from Tennessee and the Democratic leader from Nevada—both of whom are my friends—to announce today, in advance of the momentous vote that awaits us at the end of this debate, that every Senator should search his or her heart, his or her conscience, and vote accordingly.

I call on both the Democratic and Republican leaders to announce that there will be no retribution or punishment visited upon any Senator for his or her vote.

I remember in the aftermath of another vote, one I called at that time a profile in courage, when our friend, the senior Senator from Oregon, Mark Hatfield, cast the deciding vote against a proposed constitutional amendment. Ten years ago some of the newer Republican Senators at the time reported to me to say that Chairman of the Appropriations Committee. The press at the time provided counsel to those newer Senators, some having recently arrived from the other Chamber, and who were accustomed to the way the Republican Party in that body operates, where everything is all or nothing.

At the time, some of those Members urged that Senator Hatfield be penalized for his vote of conscience, a vote that was far more courageous than it looked. I urged that conscience should be set aside, he should have toed the party line. I remember the unfair pressures brought to bear on Senator Hatfield. I do not want to see that befall other Senators, Republican or Democrat, whichever way they choose to vote on the nuclear option.

The Senate has its own carefully calibrated role in our system of Government. The Senate was not intended to function like the House. The Great Compromise of the Constitutional Convention more than 200 years ago was to create in the Senate a different legislative body from the House of Representatives. Those fundamental differences
include equal representation for each State in accordance with article I, section 3. Thus, Vermont has equal numbers of Senators to New York or Idaho or California. The Founders intended this as a vital check. Representation in the Senate is not a function of population, but based on the size of a State or its wealth.

Another key difference is the right to debate in the Senate. The filibuster is quintessentially a Senate practice. James Madison wrote in Federalist No. 63 that the Senate was intended to provide “interference of some temperate and respectable body of citizens” against “illicit advantage” and the “artful misrepresentations of interested men.” It was designed and intended as a check, a balancing device, as a mechanism to promote consensus and to forge compromise.

The House of Representatives has a different and equally crucial function in our system. I respect the House and its traditions, but I respect and honor the Senate tradition. It is the Senate and only the Senate that has a special role in our legislative system to protect the rights of a minority from the divisive or intemperate acts of a majority. Its traditions just as I respect and defend its traditions just as I respect and defend the rights of a minority from “artful misrepresentations of interested men.” It was designed and intended as a check, a balancing device, as a mechanism to promote consensus and to forge compromise.

As the Republican leader agreed in debate with Senator BYRD last week, there is no language in the Constitution that creates a right to a vote or a nomination or a bill. If there were such a right, if there were a right in the Constitution to require a vote, then Republicans violated that more than 60 times by 60 times refusing to have a vote on President Clinton’s judicial nominees, by 60 pocket filibusters of Clinton judicial nominations and about 200 other executive nominations.

According to the Congressional Research Service, more than 500 judicial nominations for circuit and district court did not receive final Senate votes between 1900 and 2000. That is more than 500. It amounts to 18 percent of all overall nominations. By contrast, this President has seen more than 95 percent of his judicial nominations confirmed, 280 to date.

What the Republican leadership is seeking to do is to change the Senate rules in accordance with them but by breaking them. It is wrong that the Senators who refused to have votes on more than 60 of President Clinton’s judicial nominees, and hundreds of his executive nominations, have only one Republican agenda now—to contend the votes and nominations are constitutionally required.

The Constitution hasn’t changed from the time of the Clinton Presidency to the Bush Presidency, nor has the Senate rules been changed. That is why I like to keep the Senate autonomous and secure in a “nuclear free” zone.

The partisan power play now underway by Republicans will undermine the checks and balances established by the Founders of the Constitution. It is a giant leap toward one-party rule with an unfettered executive controlling all three branches of the Federal Government. It not only would demean the Senate and destroy the comity on which it depends, but it would undermine the strong, independent Federal judiciary protecting rights of liberties of all Americans from the over-reaching of political branches.

It is saying, no matter whether you are Republican or Democrat or Independent in this country, only Republicans need apply because they will control the nomination, the House of Representatives, the Senate, and now the independent Federal judiciary. That is what it comes down to. There will be no checks and balances on who goes on a Federal bench for a lifetime job, lifetime position. There will be no checks and balance. It will be, if you are a Republican, you can be on the Federal bench and help shape it; otherwise, forget about it.

This is not a country of one-party rule. The Republicans are going to change the Senate rules in accordance with them but by breaking them. It is wrong that the Senators who refused to have votes on more than 60 of President Clinton’s judicial nominees, by 60 pocket filibusters of Clinton judicial nominations and about 200 other executive nominations.

Under pressure from the White House over the last 2 years prior to this year, the former Republican chairman of the Judiciary Committee led Republican Senators of the six Presidents I have served with, five of them actually looked at the advice and consent clause and worked with Senators from both parties for both advice and consent of the judges. But the Republicans, having politicized and the Senate Republicans have systematically eliminated every other traditional protection for the minority. Now their target is a Senate filibuster, the only route that is left to allow a significant Senate minority to be heard.

The list of broken rules and precedents is long, including in the way the Senate rules are changed by Republican majorities to rubberstamp a Republican President’s moderate, qualified judge nominations. But then they suddenly switch gears and switch the rules to allow Republican President’s moderate, qualified judge nominations. But then they suddenly switch gears and switch the rules to rubberstamp a Republican President’s moderate, qualified judge nominations. But then they suddenly switch gears and switch the rules to allow Republican President’s moderate, qualified judge nominations.

The nuclear option is the grand culmination of their efforts. It is intended to clear the way for this President to appoint a more extreme and more divisive choice—not only in the circuit courts of appeals but should a vacancy arise on the Supreme Court. That is not how the Senate has worked or should work.

I have been here with six Presidents. It has been the threat of a filibuster that has encouraged a President to moderate his choice and work with Senators on both sides of the aisle, to delay and defeat 61 of a Democratic Senator. Of the six Presidents I have served with, five of them actually looked at the advice and consent clause and worked with Senators from both parties for both advice and consent of the judges. But the Republicans, having politicized and the Senate Republicans have systematically eliminated every other traditional protection for the minority. Now their target is a Senate filibuster, the only route that is left to allow a significant Senate minority to be heard.

Under pressure from the White House over the last 2 years prior to this year, the former Republican chairman of the Judiciary Committee led Republican Senators in breaking the longstanding precedent and Senate tradition with respect to handling lifetime appointments to the Federal bench. Senate Republicans have had one set of practices for Republican Presidents and another for Democratic Presidents. This is not a country of one-party rule. No democracy law exists to change the Senate rules in accordance with them but by breaking them.
that I had sponsored here in the Senate with my friend and colleague, the senior Senator from Virginia, Mr. Warner, to commemorate the Revolutionary War.

We were reminded of this event today by the genius of those in Newburg, NY, at the military memorial there. What was that? That was an effort by a small group of people to persuade George Washington to begin to assume the mantle of absolute power, to, in effect, become more like a king than what had been envisioned for this new Republic, a President and a system of government with checks and balances.

In one of his greatest speeches, then General Washington repudiated the Newburg Conspiracy and memorably said that we should all stand against any effort to consolidate power. We must stand for our Republic. And that Republic, which is unique in human history, has this unusual system of checks and balances that pit different parts of our government against one another that, from the very beginning, recognized the importance of minority rights because, after all, that is what the Senate is, a guarantor of minority rights.

I represent 19 million people. Yet my vote is no more important than the Presiding Officer’s or any of my other colleagues who may represent States with far fewer citizens because we have always understood that majority rule too easily can become abusive, that those in the majority and particularly those who lead that majority always believe that what they want is right by definition. It is what they fight for. It is what they care about. But we have understood, thanks to the genius of our Founders—great leaders such as George Washington—that human nature being what it is, we have to restrain ourselves, not only in the conduct of our day-to-day relations with one another but in the conduct of our government.

So we have created this rather cumbersome process of government. Sometimes people in a parliamentary system look at it and say: What is this about? You have a House of Representatives where you have majority rule, and then you have this Senate over here where people can slow things down, where they can debate, where they have something called the filibuster. It seems as if it is a little less than efficient.

Well, that is right. It is, and deliberately designed to be so, with the acute psychological understanding that every single one of us needs to be checked in the exercise of power, that despite what we may believe about our intentions and our views, not one of us has access to the absolute truth about any issue confronting us. So one of the ways we have protected the special quality of the Senate over all of these years is through unlimited debate, through the Cloture vote, where it would make it possible for a minority to be heard, and more than that, create a supermajority for certain actions that the Constitution entrusts to the Senate, and, in particularly, the appointment of judges for lifetime tenures.

Now, why would you have a supermajority for judges? Again, I think it is tied to the genius of the Founders in their understanding of human nature. This is a position of such great importance, such overwhelming power and authority, that anyone who comes before this body should be able to obtain the support of 60 of our fellow Senators. It has worked well.

There have been people going back in American history, and not just back to the beginning but back just a few years into the Clinton administration, who I believe should have been confirmed as judges. The Senate decided not to. The President has sent us his nominees, and we have confirmed more than 95 percent of them. I voted against a number of them, but the vast majority were acceptable to more than 60 Members of this body.

What is happening now with this assault on the idea of the Senate, on the creation of this unique deliberative body that serves as a check and a balance to Presidential power, to the passions of the moment, to the House, to the President, who has decided the opportunity to create consensus with respect to judicial nominees, is that we have a President who is not satisfied with the way every other President has executed his authority when it comes to judicial nominations.

Many Presidents have not liked what the Senate has done to their judicial nominees. We can go back to Thomas Jefferson, Thomas Jefferson, one of our greatest Presidents, was really upset because John Adams appointed people Thomas Jefferson did not think should be on the Federal bench. He did not agree with their philosophy. He had personal problems with some of them and the relationships between them. So he tried to undo what his predecessor had done. And the Senate, recognizing what General Washington had understood back during the Revolutionary War, what the writers of the Constitution had understood in Philadelphia, said: No. Wait a minute, Mr. President. We are not substituting one king for another. We are trying something entirely different. You may get a little frustrated, but Presidential authority is not absolute, so we are going to expect you to abide by the rules.

Every President has faced these frustrations. Franklin Roosevelt, at the height of his power, with an overwhelmingly Democratic Congress, faced all kinds of setbacks from the judiciary, and he wanted to change them. He tried to pack the Supreme Court, and the Democrats in the Senate, who put the President first, who put the Constitution first, said: No. Wait a minute. We admire you. You are saving our country. You are doing great things. But, no, we cannot let you go this far.

Well, today, we are here because another President is frustrated. He has gotten 95 percent of his judges.
Mr. President, I see the Republican leader is not on the floor yet, so I will suggest the absence of a quorum to accommodate him. 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 and the following Senators entered the Chamber and answered to their names:

Quorum Call

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The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader.

Mr. FRIST. Mr. President, for the information of our colleagues, we will be voting around noon tomorrow on the cloture motion with respect to Priscilla Owen. We will be in session through the night, and time is roughly equally divided.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 6:04 p.m., recessed subject to the call of the Chair and reassembled at 6:33 p.m., when called to order by the Presiding Officer (Mr. THUNE).

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT—Continued

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the previous order, with respect to the division of time, be modified to extend until 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. I ask the Chair, what is the pending business?

The PRESIDING OFFICER. The pending business is the nomination of Judge Priscilla Owen to be U.S. circuit court judge.
Mr. McCONNELL. Mr. President, our colleagues complained that by allowing any President’s nominees a simple up-or-down vote, we are trying to stifle the right to debate, while I think it is worth noting that we have devoted 20 days since the Owen nomination. So there is not about curtailing debating rights. This is about using the filibuster to kill nominations with which the minority disagrees so 41 Senators can dictate to the President whom he can nominate to the courts of appeal or a Supreme Court Justice.

If there is any doubt about this, I remind our colleagues that last year the distinguished minority leader said:

“There is not enough time in the universe—’Not enough time in the universe’—for the Senate to allow an up-or-down vote on the Owen nomination. So we should stop pretending this debate is simply about preserving debating prerogatives. It is clearly about killing nominations.”

Our debate is about restoring the practice honored for 214 years in the Senate of having up-or-down votes on judicial nominees. Never before has a minority of Senators obstructed a judicial nominee who enjoyed clear majority support.

Our friends on the other side of the aisle recite a list of nominees on whom there were cloture votes, but the problem with their assertion that these nominees were filibustered is that the name of each of these nominees is now preposterous meaning, of course, they were confirmed.

So what my Democratic colleagues did last Congress is, indeed, unprecedented. Even with controversial nominees, the leaders of both parties historically have worked together to afford them the courtesy of an up-or-down vote.

When he was minority leader, Senator BYRD worked with majority leader Howard Baker to afford nominees an up-or-down vote, even when they did not have a supermajority, nominees such as J. Harvey Wilkinson, Alex Kozinski, Sidney Fitzwater, and Daniel Manion.

As Senator BYRD knows, it is not easy being the majority or minority leader. He, Senator BYRD, could have filibustered every one of those nominations but he did not. Instead, he chose to exercise principled and restrained leadership of the Democratic caucus when he was minority leader. I would like to compliment Senator BYRD for that decision.

Affording the voting of controversial judicial nominees the dignity of an up-or-down vote did not stop, however, with Senator BYRD. It was true as recently as 2005, when Senator LOTT worked to stop Senator on our side of the aisle, the Republican side, who sought to filibuster the Paez and Berzon nominations. But, in 2001, as the New York Times reported, our Democratic colleagues decided to change the Senate’s ground rules, a media report they have yet to deny.

Just 2 years later, after they had lost control of the Senate, our Democratic colleagues began to filibuster qualified judicial nominees who enjoyed clear majority support here in the Senate. They did so on a repeated partisan and systematic basis. After 214 years of preserving majority support over the 19th century, they filibustered judicial nominees in only 16 months, they filibustered 10 circuit court nominees—totally without precedent. Many of these nominees would fill vacancies that the administrative offices of the courts have designated as judicial openings.

So the Senate, a lot of things you could do. But what typically happens is we exercise self-restraint, and we do not engage in that kind of behavior because invoking certain obstructionist tactics would upset the Senate’s unwritten rules. Filibustering judicial nominees with majority support falls in that category. Let me repeat, it could have always been done. For 214 years, we could have done it, but we did not.

By filibustering 10 qualified judicial nominees in only 16 months, our Democratic colleagues have broken this unwritten rule. This is not the first time a minority of Senators has upset a Senate tradition or practice, and the current Senate majority intends to do what the majority in the Senate has often done—use its constitutional authority under article I, section 5, to reform Senate procedure by a simple majority vote.

Despite the incredulous protestations of our Democratic colleagues, the Senate has repeatedly adjusted its rules as circumstances dictate. The first Senate adopted its rules by majority vote, rules, I might add, which specifically provided a means to end debate instantly by simple majority vote. That was the first Senate way back at the beginning of our country. That was Senate rule VIII, the ability to move from its practices by simple majority vote.

Two decades later, early in the 1800s, the possibility of a filibuster arose through inadvertence—the Senate’s failure to renew Senate rule VIII in 1806 on the grounds that the Senate had hardly ever needed to use it in the first place. In 1873, the Senate adopted its first restraint on filibuster, its first cloture rule—that is, a means for stopping debate—after Senator Thomas Walsh, a Democrat from Montana, forced the Senate to reconsider its authority on article I, section 5, to simply change Senate procedure. Specifically, in response to concerns that Germany was to begin unrestricted submarine warfare against American shipping, President Wilson sought to arm merchant ships so they could defend themselves. The legislation became known as the armed ship bill.

Senators who wanted to avoid American involvement in the First World War filibustered the bill. Think about this. In 1917, there was no cloture rule at all. The Senate functioned entirely by unanimous consent. So how did the Senate overcome the widespread opposition of 11 isolationist Senators who refused to give consent to President Wilson to arm ships? How did they do it?

Senator Walsh made clear the Senate would exercise its constitutional authority under article I, section 5, to reform its practices by simple majority vote. A past Senate could not, he concluded, take away the right of a future Senate to govern itself by passing rules that tied the hands of a new Senate. He said:

“A majority may adopt the rules in the first place. It is preposterous to assert that they may deny future majorities the right to change them.”

What he said makes elementary good sense. Because Walsh made clear he was prepared to end debate by majority vote, both political parties arranged to have an up-or-down vote on a formal cloture rule. Senator Clinton Anderson, a Democrat from New Mexico, noted later: “We simply won without firing a shot.” And Senator Paul Douglas, a Democrat from Illinois, observed also years later that consent was given in 1917 because a minority of obstructing Senators had Senator Walsh’s proposal “hanging over their heads.”

I know that the Senate’s 1970 cloture rule did not pertain to a President’s nominations, nor did any Senators, during the debate on the adoption of the cloture rule, discuss its possible application to nominations. This was not because Senators wanted to preserve the right to filibuster nominees. Rather, Senators did not discuss applying the cloture rule to nominations because the notion of filibustering nominations was alien to them. It never occurred to anybody that that would be done.

In the middle of the 20th century, Senators of both parties, on a nearly biennial basis, invoked article I, section 5 constitutional rulemaking authority. Their efforts were born out of frustration of the repeated filibustering of civil rights legislation to protect black Americans. A minority of Senators had filibustered legislation to protect black votes at the end of the 19th century. They had filibustered antilynching bills in 1922, 1935, and 1938; antipoll tax laws in 1942, 1944, and 1946; and antitraffic discrimination bills.

In 1959, Majority Leader Lyndon Johnson agreed to reduce the number required for cloture to two-thirds of Senators who were present and voting because he was faced with a possibility
that a majority would exercise its constitutional authority to reform Senate procedure. He knew the constitutional option was possible.

Additionally, the Senate had voted four times for the proposition that the majority had authority to change Senate procedures. For example, in 1969, Senators were again trying to reduce the standard for cloture—that is, the rule to cut off debate—from 67 down to 60. To shut off debate on this proposal, Democratic Senator Frank Church from Idaho secured a ruling from the Presiding Officer, Democratic Vice President and former Senator Hubert Humphrey, that a majority could shut off debate, irrespective of the much higher cloture requirement under the standing rules. A majority of Senators then voted to invoke cloture by a vote of 51 to 47 in accord with the ruling of Vice President Humphrey. This was the first time the Senate voted in favor of a simple majority procedure to end debate.

The Senate reversed Vice President Humphrey’s ruling on appeal. But as Senator Kennedy later noted:

This case only cemented the principle that a simple majority could determine the Senate’s rules.

Senator Kennedy said:

Although [Vice President Humphrey’s] ruling may have been reversed, the reversal was accomplished by a majority of the Senate. In other words, majority rule prevailed on the issue of the Senate’s power to change its rules.

Senator Kennedy made this observation in 1975, when reformers were still trying to reduce the level for cloture from 67 down to 60. Reformers had been thwarted in their effort to lower this standard for several years.

In 1975, once again, Senate Democrats asserted the constitutional authority of the majority to determine Senate procedure in order to ensure an up-or-down vote. The Senate eventually adopted a three-fifths cloture rule—votes to cut off debate—but only after the Senate had voted on three separate occasions in favor of the principle that a simple majority could end debate. They had voted on three separate occasions that a simple majority could end debate, after which it was a compromise establishing the level at 60.

The chief proponent of this principle was former Democratic Senator Walter Mondale and four current Democratic Senators who were in favor of it: Senator Biden, Senator Leahy, Senator Kennedy, and Senator Inouye. Indeed, Senator Kennedy was an especially forceful adherent to the constitutional authority of the Senate majority to govern—a mere majority. He asked:

By way of history, the Senate of 1917 or 1949 bind the Senate of 1975?

That was Senator Kennedy. He then echoed Senator Walsh’s observation from almost 60 years earlier:

A majority may adopt the Rules in the first place. It may in order to assert that they may deny to later majorities the right to change them.

Finally, referring to unanimous consent constraints that faced the Senate in 1917, Senator Kennedy made an astute observation as to why a majority of the Senate had to have rulemaking authority. Senator Kennedy said:

Surely no one would claim that a rule adopted concerning changes in the rules except by unanimous consent, could be binding on future Senates. If not, then why should one Senate be able to bind future Senates to a rule that such change can be made only by a two-thirds vote?

Recently, the authority to which I have been referring has been called the “constitutional option,” or the perjorative term, “nuclear option.” But while the authority of the majority to determine Senate procedures has long been recognized, most often in Senate history by our colleagues on the other side of the aisle—incidentally, it was the senior Senator from West Virginia who employed this constitutional authority most recently, most effectively, and most frequently.

Senator Byrd employed the constitutional option four times in the late 1970s and 1980s. The context varied but three common elements were present each time he asked change in Senate procedure through a point of order rather than through a textual change to Senate rules; second, the change was achieved through a simple majority vote; third, the change in procedure curtailed the options of Senators, including their ability to mount different types of filibusters or otherwise pursue minority rights.

The first time Senator Byrd employed the constitutional option was in 1977 to eliminate postcloture filibuster by amendment. Senate rule XXII provides once cloture is invoked, each Member is limited to 1 hour of debate, and it prohibits dilatory and non-germane amendments. But because Democratic Senators Howard Metzenbaum of Ohio and James Abourezk of South Dakota opposed deregulating natural gas prices, they used existing Senate procedures to delay passage of a bill that would have done so after cloture had been invoked. They stalled debate by repeatedly offering amendments without debating them, thereby delaying the cloture clock.

If points of order were made against the amendments, they simply appealed the ruling of the Chair which was debatable, and a motion to table the appeal then would have to be rollcall votes. Neither of these options would consume any postcloture time.

After 13 days of filibustering by amendment, the Senate had suffered through 121 rollcall votes and endured 34 live quorums with no end in sight.

Under then existing precedent, the Presiding Officer had to wait for a Senator to make a point of order before ruling an amendment out of order. By contrast, Senator Byrd changed that procedure. He enlisted the aid of Vice President Walter Mondale as Presiding Officer and made a point of order that the Presiding Officer now had to take the initiative to rule amendments out of order of the Chair deemed dilatory. Vice President Mondale sustained Senator Byrd’s new point of order. Senator Abourezk appealed, but his appeal was overruled by majority vote. The use of this constitutional option set a new precedent. It allowed the Presiding Officer to rule amendments out of order to crush postcloture filibusters.

With this new precedent in hand, Senator Byrd began calling up amendments, and Vice President Mondale began ruling them out of order. With Vice President Mondale’s help, Senator Byrd disposed of 33 amendments, making short work of the Metzenbaum-Abourezk filibuster.

Years later, Senator Byrd discussed how he created a new precedent to break this filibuster. This is what Senator Byrd said years later about what he did:

I have seen filibusters. I have helped to break them.

There are a few Senators in this body who were here when I broke the filibuster on the natural gas bill... I have known Majority Leader Byrd, and I wish him well. To Majority Leader Byrd, and Vice President Mondale, 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.

And the filibuster was broken—back, neck, legs, and arms. It went away in 12 hours.

So I know something about filibusters. I helped to set a great many of the precedents that are in the books here.

That is Senator Byrd on his effort—one of his efforts—involving the use of the constitutional option.

Although Senator Byrd acted within his rights, his actions were certainly controversial. His Democrat colleague, Senator Abourezk, complained that Senator Byrd had changed the entire rules of the Senate during the heat of the debate on a majority vote. And according to Senator Byrd’s own history of the Senate, the book that he wrote that año, all administration and Vice President Mondale were severely criticized for the extraordinary actions taken to break the postcloture filibusters.

Some might argue that in 1977 Senator Byrd was not subscribing to the constitutional option. However, the procedure he employed, making a point of order, securing a ruling from the Chair, and tabling the appeal by a simple majority vote, is the same procedure the current Senate majority may use. Moreover, 15 months later, Senator Byrd expressly embraced the Senate majority’s rulemaking authority.

Back in January of 1979, Majority Leader Byrd proposed a Senate rule to codify reform debate procedure. His proposed rules change might have been filibustered, so he reserved the right to use the constitutional option. Here is what he said:

I base this resolution on Article I, Section 5 of the Constitution. There is no higher law, in so far as our government is concerned, than the Constitution.
The Senate rules are subordinate to the Constitution of the United States. The Constitution in Article I, section 5, says that each House shall determine the rules of its proceedings. This Congress is not obligated to be bound by the dead hand of the past.

Senator BYRD did not come to his conclusion lightly. In fact, in 1975 he had argued against the constitutional option required with a filibuster in 1979 he said he simply changed his mind. This is what he had to say:

I have not always taken that position but I take it today in light of recent bitter experience. So I say to Senators again, that the time has come to change the rules. I want to change them in an orderly fashion. I want a time agreement.

But, barring that, if I have to be forced into a corner to try for majority vote I will do it because I am going to do my duty as I see my duty, whether I win or lose. . . . If we can only change an abominable rule by majority vote, that is in the interests of the Senate and in the interests of the Nation that the majority must work its will. And it will work its will.

Senator BYRD did not have to use the constitutional option in early 1979 because the Senate relented under the looming threat and agreed to consider his proposed rule change through regular order.

As another example, in 1980, Senator BYRD created a new precedent that is the most applicable to the current dispute in the Senate. This use of the constitutional option eliminated the possibility that filibusters could be used to block a motion to proceed to a nomination. We are on a nomination now on the Executive Calendar. The reason it was not possible to filibuster a nomination was on a nomination now on the Executive Calendar required two separate motions, a nondebatable motion to proceed to an Executive session, which could not be filibustered, and which would put the Senate on its first treaty on the calendar; and a second debatable motion to proceed to a particular nominee which could be filibustered.

Senator BYRD changed this precedent by conflating these two motions, one of which was debatable, into one nondebatable motion. Specifically, he made a motion directly into Executive session to consider the first nominee on the calendar. Senator Jesse Helms made a point of order that this was improper under Senate precedent; a Senator could not use a nondebatable motion to specify the business he wanted to conduct on the Executive Calendar. The Presiding Officer sustained Senator Helms’s point of order under Senate rules and precedence.

In a party-line vote, Senator BYRD overruled the ruling on appeal. And because that debate in precedent, it effectively is no longer possible to filibuster the motion to proceed to a nominee.

So where are we? There are other examples where our distinguished colleagues used the Senate’s authority to reform its procedures by a simple majority vote. We on this side of the aisle may have to employ the same procedure in order to address the practice of forcing judicial nominees an up-or-down vote. We did not cavalierly decide to use the constitutional option. Like Senator BYRD in 1979, we arrived at this point after “recent bitter experience.” To quote Senator BYRD, and only after debate was resolved to solve this problem through other means had failed.

Here is all we have done in recent times to restore up-or-down vote for judges: We have offered generous unanimous consent requests. We have had weeks of debate. In fact, we spent 20 days on the current nominee. The majority leader offered the Frist-Miller rule compromise. All of these were rejected. The Specter protocols, which would have major nominations not botted up in committee, was offered by the majority leader. That was rejected; Negotiations with the new leader, Senator Reid, hoping to change the practice from the previous leadership in the previous Congress, that was rejected; the Frist Fairness Rule compromise, all of these were rejected.

Now, unfortunately, none of these efforts have, at least as of this moment, borne any fruit.

Our Democrat colleagues seem intent on changing the ground rules, as the New York Times laid it out in 2002. They want to change the ground rules as they did in the previous Congress in how we treat judicial nominations.

We are intent on going back to the way the Senate operated quite comfortably for 214 years. There were occasional filibusters but cloture was filed and on every occasion where the nominee enjoyed majority support in the Senate cloture was invoked. We will have an opportunity to do that in the morning with cloture on Priscilla Owen. Colleagues on both sides of the aisle who want to diffuse this controversy have a way to do it in the morning, and that is to do what we did for 214 years. If there was a controversial nominee, cloture was filed, cloture was invoked, and that controversial nominee got an up-or-down vote.

Mr. GRASSLEY. Mr. President, will the Senator yield?

Mr. MCCONNELL. I am happy to yield.

Mr. GRASSLEY. One of the things that the public at large can get confused about is that we are going to eliminate the use of the filibuster entirely. I have seen some of the “537” commercials advising constituents to get hold of their Congressman because minority rights are going to be trammeled. I, obviously, find that ludicrous. I know this debate is not about changing anything dealing with legislation. It is just maintaining the system we have had in the Senate on judges for 214 years. I wonder if the Senator would clear up that we are talking just about judicial nominees, and not even all judicial nominees, and nothing to change the filibuster on legislation.

Mr. MCCONNELL. My friend from Iowa, if the majority leader does have to exercise the constitutional option and ask us to support it, it will be narrowly crafted to effect only circuit court appointments and the Supreme Court, which are, are, are the only areas where there has been a problem.

I further say to my friend form Iowa, in the years I have been in the Senate, the only time anyone has tried to get rid of the entire filibuster was back in 1995 when such a measure was offered by the other side of the aisle.

Interestingly enough, the principal beneficiaries of getting rid of the filibuster in January of 1995 would have been our party because we had just come back to power in the Senate, yet not a single Republican, not one, voted to get rid of the filibuster. Nineteen Democrats did, two of whom, Senator Kennedy and Senator Kerry, are still in the Senate and now arguing, I guess, the exact opposite of their vote a mere 10 years ago.

Mr. GRASSLEY. So when we just came back into the majority, after the 1994 election, there was an effort by Democrats to eliminate the filibuster?

Mr. MCCONNELL. Entirely.

Mr. GRASSLEY. For everything, including legislation.

Mr. MCCONNELL. Right.

Mr. GRASSLEY. We were the new majority.

Mr. MCCONNELL. Right.

Mr. GRASSLEY. And we would have benefited very much from that. It would have given us an opportunity to get anything done that we could get 51 votes for doing, with no impediment, and we voted against that?

Mr. MCCONNELL. Unanimously. And interesting enough, the principal vote cast by our now-Senate majority leader, Senator Frist, here in the Senate. The very first vote he cast, along with the rest of us on this side of the aisle, was to keep the filibuster.

Mr. GRASSLEY. So I think that ought to make it clear we are just talking about the unprecedented use of the filibuster within the last 2 years. We are not talking about changing anything in regard to filibusters on legislation because that is where you can work compromises. You cannot really work compromises when it comes to an individual—is it either up or down. But you can change words, you can change paragraphs, you can rewrite an entire bill to get to 60, to vote to finality, on any piece of legislation.

Mr. MCCONNELL. My friend from Iowa is entirely correct. The filibuster would be preserved for all legislative items, preserved for recounts, the only branch the Senate rules are subordinate to the Constitution of the United States. The Constitution in Article I, section 5, says that each House shall determine the rules of its proceedings.
selecting or blocking district judges. All of that would be preserved. If we have to exercise the constitutional option tomorrow, it will be narrowly crafted to deal only with future Supreme Court appointments and circuit court appointments, which is where we believe aberrational behavior has been occurring in the past and may occur in the future.

Mr. GRASSLEY. And maintain the practice of the Senate as it has been for 214 years prior to 2 years ago.

Mr. MCCONNELL. That is precisely the point. My friend from Iowa is entirely correct.

Mr. GRASSLEY. I thank the Senator.

Mr. HATCH. Will the assistant majority leader yield for a question?

Mr. MCCONNELL. Yes.

Mr. HATCH. Just to make it clear, there are two calendars in the Senate. One is the legislative calendar and the other is the Executive Calendar; is that correct?

Mr. MCCONNELL. That is correct.

Mr. HATCH. The legislative calendar is the main calendar for the Senate, and it is solely the Senate's; is that correct?

Mr. MCCONNELL. That is correct.

Mr. HATCH. But the Executive Calendar involves nominations through the nomination power granted by the Constitution to the President of the United States, and the Senate has the power to advise and consent on that nomination power, is that right, to exercise that power?

Mr. MCCONNELL. That is entirely correct.

Mr. HATCH. What we are talking about here is strictly the Executive Calendar, ending the inappropriate filibusters on the Executive Calendar and certainly not ending them on the legislative calendar?

Mr. MCCONNELL. My friend from Utah is entirely correct.

Mr. HATCH. Well, our Democratic friends argue—just to change the subject a little bit here—they argue we have to institute the judicial filibuster to maintain the principle of checks and balances as provided in the Constitution. But unless my recollection of events is different, this contention does not fit with the historical record.

Isn't it the case that the same party has often been in the White House and in the Senate, such as today, but in the past, while the same party has controlled the White House and been a majority in the Senate, neither party, Democrats or Republicans, over the years, has filibustered judicial nominations until this President's term?

Mr. MCCONNELL. My friend is entirely correct. The temptation may have been there. I would say to my friend from Utah, the temptation may have been there.

Mr. HATCH. Right.

Mr. MCCONNELL. During the 20th century, the same party controlled the executive branch and the Senate 70 percent of the time. Seventy percent of the time, in the 20th century, the same party had the White House and a majority in the Senate. So I am sure—by the way, that aggrieved minority in the Senate, for most of the time, was our party, the Republican Party.

Mr. HATCH. You are right.

Mr. MCCONNELL. We are hoping for a better century in the 21st century. But it was mostly our party. So there had to have been temptation, from time to time, and frustration, on the part of the minority, Senator Byrd. Percent of the time, in the 20th century, they could have employed this tactic that was used in the last Congress but did not.

Senator BYRD led the minority during a good portion of the Reagan administration. Actually, during all of the Reagan administration, 6 years in the minority, 2 years in the majority, Senator Byrd could have done that at any point. He did not do it, to his credit, he did not yield to the temptation.

As I often say, there are plenty of things we could do around here, but we do not do it because it is not good to do it, even though it is arguably permissible. But we did on the other side of the aisle say the filibuster has been around since 1806, they are right. It is just that we did not exercise the option because we thought it was irresponsible.

Mr. HATCH. Not quite right because the filibuster rule did not come into effect until 1917.

Mr. MCCONNELL. No. The ability to stop the filibuster did not come about until 1917. The ability to filibuster came about in 1806.

Mr. HATCH. Well, Senators had the right to speak, and they could speak.

Mr. MCCONNELL. Absolutely.

Mr. HATCH. So in a sense it was not even known as a filibuster at that time. Nevertheless, they had the right to speak.

To follow up on what you just said, we heard repeatedly from liberal interest groups that we must maintain the filibuster to maintain "checks and balances." My understanding of the Constitution's checks and balances is that they were designed to enable one branch of Government to restrain another branch of Government. Are there really any constitutional checks that empower a minority within one of those branches to prevent the other branch from functioning properly?

Mr. MCCONNELL. Well, my friend from Utah is again entirely correct. The term "checks and balances" has actually nothing to do with what happened to circuit court appointments during the previous Congress. The term "checks and balances" means institutional checks against each other, the Congress versus the President, the judiciary versus the balance of power in the branches of Government. It has nothing whatsoever to do with the process to which the Senate has been subjected in the last few years. It is simply a term that is inapplicable to the dilemma in which we find ourselves now.

Mr. HATCH. One last point. The 13 illustrations that the Democrats on the other side have given that they have said are filibusters, if I recall correctly, 12 of those sitting on the Federal bench, as you have said; is that correct?

Mr. MCCONNELL. I say to my friend from Utah, as far as I can determine, for every judge who enjoyed majority support for advancement, there was subsequently a filibuster, cloture was invoked, and all of those individuals now enjoy the title "judge."

Mr. HATCH. In other words, they are sitting on benches today?

Mr. MCCONNELL. Because they ultimately got an up-or-down vote. I would say to my friend from Utah, we will have an opportunity tomorrow, in the late morning, to handle the Priscilla Owen nomination the way our party, at your suggestion and Senator LOTT's suggestion, toward the end of the Clinton years, handled the Benson and Paez nominations. They had controversy about them, just as this nomination has controversy about it. How did we do that; did we filibuster about it? We invoked cloture. And I remember you and Senator LOTT saying, to substantial grief from some, that these judge candidates had gotten out of committee, and they were entitled to an up-or-down vote. Senator LOTT joined Senator Daschle and filed cloture on both of those nominations, not for the purpose of defeating them but for the purpose of advancing them. They both got an up-or-down vote. They both are now called judges.

Mr. HATCH. So the cloture votes in those instances were floor management devices to get to a vote so we could vote those nominations to the bench?

Mr. MCCONNELL. For the purpose of advancing the nominations, not defeating them.

Mr. HATCH. So they were hardly filibusters in that sense?

Mr. MCCONNELL. They were not. They were situations which do occur, from time to time, where a nominee has some objection. And around here, if anybody objects, it could conceivably end up in a cloture vote.

Mr. HATCH. And spend a lot of time on the Senate floor?

Mr. MCCONNELL. Yes. It does not mean the nomination is on the way to nowhere. It could mean the nomination is on the way to somewhere because you invoke cloture and then you get an up-or-down vote. And I remember you, as chairman of the Judiciary Committee, advancing them. So what step, even though we all ended up, many of us, voting against those nominations once we got to the up-or-down vote.

Mr. HATCH. Advocating the step that we should invoke cloture and give these people a vote up or down?

Mr. MCCONNELL. Precisely.

Mr. HATCH. One last thing. As to the 13, 12 of them are sitting on the bench.
The 13th that they mentioned was the Fortas nomination. In that case, there was the question of whether there was or was not a filibuster. But let’s give them the benefit of the doubt and say there was a filibuster, after all. I know that there are those who do say there was, although the leader of the left, Senator Griffin, at the time said they were not filibustering, that they wanted 2 more days of debate, and they were capable and they had the votes to win up or down—

Mr. MCCONNELL. He withdrew, didn’t he?

Mr. HATCH. He did. But what happened was there was one cloture vote, and it was not invoked. But even if you consider it a filibuster, the fact is, it was not a leader-led filibuster. It was a nomination that was filibustered—if it was a filibuster—almost equally by Democrats and Republicans.

Mr. McCONNELL. And isn’t it also true, I ask my friend from Utah, that it was apparent that Justice Fortas did not get much support in the Senate and would have been defeated?

Mr. HATCH. That is right.

Mr. McCONNELL. Had he not withdrawn his nomination?

Mr. HATCH. The important thing here is, the partisan filibuster against a nominee by both parties, and in these particular cases, these are leader-led partisan filibusters led by the other party.

Mr. McCONNELL. I thank my colleagues.

Mr. SESSIONS. Mr. President, will the Senate yield?

Mr. McCONNELL. I am happy to yield.

Mr. SESSIONS. I hope Senator HATCH will remain because he has been, much of the first years of my career in the Senate, chairman of the Senate Judiciary Committee. I think it is important to drive home what you have been discussing. I think it is so important.

First, to the distinguished assistant majority leader how much I appreciate his comprehensive history of debate in the Senate. I think it is invaluable for everyone here. But I remember the Berzon and Paez nominations. Both of those were nominees to the Ninth Circuit. Judge Paez, a magistrate judge, declared that he was an activist himself, as I recall, and even said that if legislation does not act, judges have a right to act. And the Supreme Court had reversed the Ninth Circuit 28 out of 29 times one year and consistently reversed them more than any other court in America. And here we had an ACLU counsel, in Marsha Berzon, and Paez being nominated.

There was a lot of controversy over that. We had a big fuss over that. We had an objection. I voted for 95 percent of President Clinton’s nominees, but I did not vote for these two. I remember we had a conference.

I will ask the assistant majority leader—we were having House Members saying: Why don’t you guys filibuster? People out in the streets were saying: Don’t let them put these activist judges on the bench. We had our colleagues saying it. I did not know what to do. I was new to the Senate. Do you remember that conference when we had the majority in the Senate, and President Clinton was of the other party and we were not in minority like the Demo-}

It is not entirely the same thing, but granting that there might have been some legitimate concerns about the role of filibuster, I believe we have used these Specter protocols with which the former chairman of the Judiciary Committee is intimately familiar, which would have guaranteed some kind of procedure to extricate those nomination committee procedures. If we had been able to bring them out to the floor and give them an up-or-down vote. We are in the majority, and we volunteered to give up the ability to routinely kill nominations in committee. Yet they turned that down, too.

Mr. HATCH. Will the Senator yield on that point?

Mr. McCONNELL. I yield for a question.

Mr. HATCH. The fact is, there have always been holdovers at the end of every administration. There were 54 holdovers at the end of the Bush 1 administration, and he was only there 4 years. We didn’t cry and moan and groan and threaten to blow up the Senate. We simply did in committee what they are doing on the floor.

But this has always been the case. It isn’t just this time. It happened with Democrats in control of the Senate and Republicans in control of the White House. I think that point needs to be made.

Mr. McCONNELL. I would say to my friend that is why we have been quoting them so much in all of our speeches on this side of the aisle. You could just change the names, and they could have been giving our speeches as recently as 1998, 1999, and even 2000.

Mr. SESSIONS. Isn’t it true that Trent Lott, the Republican majority leader, sought cloture to give Berzon and Paez an up-or-down vote, and those of us who opposed Berzon and Paez, as the Senator from Kentucky did, voted for cloture to give them an up-or-down vote and then voted against them when the came up for an up-or-down vote?

Mr. McCONNELL. The Senator is entirely correct. That is the way I voted. I believe that is the way he voted. That is the way the Senate ought to operate.
That is a good model for how we ought to behave tomorrow. We will have a cloture vote on Justice Priscilla Owen. If the Senate wants to operate the way it used to, we will invoke cloture on Justice Owen and then give her the up-or-down vote which she richly deserves. I yield the floor.

Mr. FRIST. Mr. President, more than 2 years ago, this Senate first took a cloture vote to end a filibuster on the nomination of Miguel Estrada for a seat on the DC Circuit Court of Appeals. Mr. Estrada epitomizes the American dream. An immigrant from Honduras, who arrived in America speaking no English, he graduated from Harvard Law School and became one of America’s most distinguished lawyers. Mr. Estrada worked for Solicitors General under both President Bill Clinton and President George W. Bush. He argued 15 cases before the Supreme Court. The American Bar Association gave him its highest recommendation, and the confirmation vote was bipartisan. A majority of the full Senate was assured.

But the confirmation vote never came. Instead, Mr. Estrada’s nomination was filibustered. Each time we sought a consent agreement to limit debate, the Democratic leadership objected. We asked over and over for a simple up or down vote. If you oppose the nominee, you stress, then vote against him, but give him a vote. But the party leaders refused. In one session, they remarked that no amount of debate time would be sufficient and that they would not permute the Senate to vote.

After 13 days of debate, with no end in sight, I filed a cloture motion. Every Republican and a handful of Democrats voted for cloture, bringing us to 55 affirmative votes, 5 short of the 60 we needed. Shortly thereafter, we tried again. We got the same 55 votes. And then we tried five more times, never budging a single vote. It was crystal clear that the object of the filibuster was not to illuminate Mr. Estrada’s record but to deny him an up or down vote. Debate was not the objective. Obstruction was the objective. Finally, to the shame of the Senate and the harm of the American people, Mr. Estrada asked President Bush to withdraw his nomination.

Before the last Congress, the record number of cloture votes on a judicial nomination was two, and no nomination with clear majority support ever died by filibuster. The Estrada case re-wrote that tradition, and for the worse. On Miguel Estrada, seven cloture votes were taken, to no avail. He was a nominee who plainly could have been confirmed, but he was denied an up or down vote. Miguel Estrada’s nomination died by filibuster.

And Mr. Estrada’s case was just the beginning. After him, came the nomination of Priscilla Owen, a Justice on the Texas Supreme Court. Four cloture votes did not bring an end to the debate and we again were told on the record that no amount of debate would be enough and a confirmation vote simply would not be allowed. Thereafter, eight additional nominees were filibustered and Democrats threatened filibusters on six more. Something had radically changed in the way the Senate operated. Two hundred years of Senate custom lay shattered, with grave implications for our constitutional system of checks and balances.

As Democrats began to mushroom, Democratic Senator Zell Miller and I introduced a cloture reform resolution. Our proposal would have permitted an end to nominations filibustered after reasonable and substantial debate. The Rules Committee held a hearing on our resolution and reported it with an affirmative recommendation. But the proposal languished on the Senate Calendar, facing a certain filibuster from Senators opposed to cloture reform. Quite simply, those who undertook to filibuster these nominees wanted no impediments put in their way.

When Congress convened this January, I was urged to move immediately for a change in Senate procedure so that we would not miss the unprecedented filibuster which could not be repeated. But I decided on a more measured and less confrontational course. Rather than move immediately to change procedure, I promoted dialogue at the leadership level to seek a solution to this problem. Rather than act on the record of the last Congress, I hoped that the passage of a clearly overdue cloture reform would redress years of Senate custom lay shattered and Democrats threatened filibusters on six more. Something had radically changed in the way the Senate operated. Two hundred years of Senate custom lay shattered, with grave implications for our constitutional system of checks and balances.

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that only through the filibuster may the Senate’s advice and consent check be vindicated? This is a novel conclusion and it stains the reputation of the great Senators that have preceded us.

To make their case against curbs on judicial filibusters, Democrats cite the 1968 nomination of Abe Fortas to be Chief Justice of the U.S. Supreme Court, and Franklin Roosevelt’s court-packing plan of 1937. But use of these examples is an overreach and draws false comparisons.

In 1968, Abe Fortas was serving on the Supreme Court as an Associate Justice. Three years earlier, he had been confirmed by the Senate by voice vote, following a unanimous affirmative recommendation from the Judiciary Committee. Then Chief Justice Earl Warren announced his retirement, effective on the appointment of his successor. President Lyndon Johnson proposed to elevate Fortas to succeed Warren.

The noncontroversial nominee of 1965 became the highly controversial nominee of 1968. Justice Fortas was caught in a political perfect storm. Some Senators raised questions of ethics. Others complained of nepotism. Yet others were concerned about Warren Court decisions. And still others thought that with the election looming weeks away, a new President should fill the Warren vacancy. But this political perfect storm was thoroughly bipartisan in nature, and reflected concerns from certain Republicans as well as numerous southern and northern Democrats.

Senator Mike Mansfield brought the Fortas nomination to the Senate floor late on September 24, 1968. After only 2 full days of debate, Mansfield filed a cloture motion. Almost a third of the 26 Senators who signed the cloture motion were Republicans, including the Republican whip. The vote on cloture was 45 and 43, well short of the two-thirds needed to close debate. Nearly a third of Republicans supported cloture, including the Republican whip. Nearly a third of Democrats opposed it, including the Democratic whip. Of the 43 negative votes on cloture, 24 were Republican and 19 were Democratic.

Opponents of cloture claimed that debate had been too short in order to develop the full case against the Fortas nomination. But to the American people, and that includes the 45 and 43 who voted to stop Fortas, the system by which we elected our Senators has ever ensured that we would debate and sometimes agonize, but it has always addressed nominations for lifetime appointments.

Mr. President, that the judicial filibusters undermine a longstanding Senate tradition is evident. But traditions are not laudable merely because they are old. This tradition is important because it underpins a vital constitutional principle that the President shall nominate, subject to advice and consent by a majority of the Senate. Implicit in that structure is that the President and the Senate shall be politically accountable to the American people, and that accountability will be a sufficient check on improper decisions made by them.

That was the system by which we Americans addressed nominations for more than two centuries, until the last Congress. If we allow recent precedents to harden and give the minority a filibuster-veto in the confirmation process, the checks and balances it serves, will be permanently destroyed.

To require a cloture threshold of 60 votes to end a filibuster, the Senate must first secure minority clearance, if he does not, they will withdraw the nominations he has submitted anew. If he does not, they will ensure the nominees are denied a confirmation vote. It is but a tiny step from here to claim that the minority must first secure minority clearance, or else be filibustered. And at that point, the nominating power effectively passes to the Senate minority. If Senate traditions are not restored, this audacious and unprecedented assertion of minority power is coming next, and Presidents will be subject to it from now on.

The Constitution provides that a duly elected Executive shall nominate, subject to advice and consent by a majority of the Senate. Implicit in that structure is that the President and the Senate shall be politically accountable to the American people, and that accountability will be a sufficient check on improper decisions made by them.

In the past, the Senate has discussed, debated and sometimes agonized, but it has always voted on the merits. No Senator or group of Senators has ever usurped that constitutional prerogative. That unbroken tradition, in my opinion, merely reflects on the part of the Senate the distinction heretofore recognized between its constitutional responsibility to confirm or reject a nominee and its role in the enactment of new and far-reaching legislative proposals.

Mr. President, history demonstrates that filibusters have almost exclusively been applied against the Senate’s own constitutional prerogative to initiate legislation, and not against nominations. The Frist-Miller cloture reform proposal from the last Congress dealt with nominations only, not legislation and not treaties. We addressed solely what was broken. Over many decades, numerous cloture reforms have been proposed. But ours was the only one to apply strictly to nominations.

Contrary to what Democrats would have you believe, no Republican seeks...
to end legislative filibusters. The Democrats are creating a myth. These are the facts: my first Senate vote was to defeat a 1995 rules change proposal to curtail filibusters of every kind. Introduced by Democrats, it received 19 votes, all from Democrats. In 1996, we had a Democratic majority. We would have been the prime beneficiaries of the rules change, but we supported minority rights to filibuster on legislation. Some of the Senators who most vigorously promote judicial filibusters are those who favored restoring Senate traditions, were among those voting for the 1995 change. And here is the irony: had the 1995 change been adopted, the judicial filibusters would be impossible.

Some who oppose filibuster reform do so because they fear that curbing judicial filibusters will necessarily lead to ending the right to filibuster legislation. But history strongly suggests this slippery slope argument is groundless. In 1960, under the leadership of Senator Byrd and on a bipartisan vote, Senate Democrats engineered creation of a precedent to bar debate on a motion to proceed to a nomination. Before then, the potential existed for extended debate on the motion to proceed to a nomination and again on the nomination itself. Indeed, debate on the Fortas nomination occurred on the motion to proceed. The 1980 precedent rendered such debate impossible.

Simply put, the only precedent for a parallel precedent would be established next, to bar debate on motions to proceed to legislation. But that logic was not followed. The Byrd precedent of 1980 has stood for 25 years and no move has ever been made to extend it to legislation. Why not? I suggest there are two reasons. First, the Senate has recognized substantial distinctions between procedures applicable to Executive matters—nominations and treaties—and those applicable to legislation. Second, within the Senate there is no discernible political sentiment to curtail the right to debate a motion to proceed to legislation.

Given those substantial procedural distinctions and the absence of such political sentiment, the spillover from the 1980 Byrd precedent has been nil. There is a further reason why I do not believe curbing judicial filibusters implicates legislation. For 22 years, between 1974 and 1996, floor fights over the cloture rule were a biennial ritual. Finally, in 1975, the rule was amended to require 60 votes before cloture could be invoked. A bipartisan consensus gathered around the new cloture threshold and, at least as to legislation, this consensus has held fast. That is the principal cause why the 1995 effort by Senate Democrats to liberalize the cloture rule got only 19 votes. Indeed, both the Republican and Democratic leadership opposed it. The bipartisan consensus on cloture has un摇erved on judges, where filibusters are new, but it remains intact on legislation, where filibusters are traditional. While no one can be sure what procedural changes a future majority may propose, this consensus is so broad and longstanding that predictions of a move against legislation are likely a hard sell.
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ered a successful leadership com-
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But for the constitutional option, the

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constitutional option to change the rules.

Minority Republicans did not threaten to shut the Senate down. In

stead, they gave him an agreement,

from which followed a lengthy and

spirited debate. In the end, the cloture

rule was amended—a change that hap-

under pressure from the con-

stitutional option.

From this history, one must conclude that the threat or use of the constitu-

tional option was a critical factor in the creation and development of the

Senate cloture rule.

The constitutional option is also ex-

ercised every time the Senate creates a

precedent. Four examples will illus-

trate. Two have already been en-

sioned to Senator Byrd’s 1980 precedent to bar debate on motions to proceed to nomi-

nations. In 1977, 1979, and 1987 he led a

Senate majority to establish precede-

nts that restricted minority rights and

that for the first time, the Senate did not have to pass judgment on the

purposes or value of any of these moves to note the following: three of these cases were decided on a party-line or near party-line vote. Moreover, every time Senator Byrd commanded a majority to make these precedents, minority rights were limited.

We have been publicly threatened that if we act to end judicial filibus-

ters, Democrats will fundamentally shut down. To follow their logic, if we expect to get the public’s business done, we must tolerate spend-

ing Senate traditions and constituti-

onal checks and balances.

I would strongly prefer that matters not come to that. It would be far better for the Senate to have a vigorous and
elevated debate about reforming the entire confirmation process, followed by a vote. I am ready for that debate and willing to schedule the floor time necessary to make it happen.

Mr. President, I introduced the Frist-

Miller cloture reform proposal nearly 2 years ago, on May 9, 2003. The problem of judicial filibusters had just taken root. At the time, I said that I was act-

ing with regret but determination. Re-

gret, because no one who loves the Sen-

ate can but regret the need to alter its procedures, even if to restore old tradi-

tions. Determination, because I was de-

termined that the changes judicial fil-

ibusters had wrought in the Senate could not become standard operating procedure in this Chamber.

Since then, the Senate majority has exercised self-restraint, hoping for a bi-

partisan understanding that would make procedural changes unnecessary. But if an extended hand is rebuffed, we cannot take rejection for an answer.

Much is at stake in resolving the issue of judicial filibusters. Senator Mansfield spoke to this issue during the Fortas debate in 1968. His words are

instructive now:

"I reiterate we have a constitutional obliga-
tion to consent or not to consent to this nomination. We may evade that obligation by delaying the vote for endless days. But in the end, the question which must be faced is simply: Is the man qualified for the appointed position? That is the key. It can not be hedged, hammed or hawed. There is one ques-
tion: shall we consent to this Presidential appointment? A Senator or group of Sen-

ators may frustrate the Senate indefinitely in the exercise of its constitutional obliga-
tion with respect to this question. In so doing, they presume great personal privilege at the expense of the responsibilities of the Senate as a whole, and at the expense of the constitutional structure of the Federal gov-

ernment.

Mr. President, exercising the con-

stitutional option to restore Senate traditions would be an act of last re-
sort. It would be undertaken only if every reasonable step to otherwise re-

solve this impasse is exhausted. At stake are the twin principles of separa-
tion of powers as well as checks and balances bedrock foundations for the

Constitution itself. And at stake is our duty as Senators of advice and consent, to confirm a President’s nominee or re-

ject her, but at long last to give her a vote.

The PRESIDING OFFICER. The Sen-

ator from New Jersey.

Mr. LAUTENBERG. Mr. President, the debate bounces back and forth, and we hear the complaints about the change in the system, one that has been in existence for some 200 years. It

was formally adopted in the early part of the 20th century.

I see the fact that the traditions and rules will break the chains that bind him in this deep jeopardy. The current majority leader is threatening to annihilate over 200 years of tradition in this Senate by getting rid of our right to extended de-

bate. The Senate that will be here as a result of this nuclear option will be a dreary, bitter, far more partisan land-

scape, even though it obviously pre-

vents us from operating with any kind of consensus. It will only serve to make politics in Washington much more dif-

ficult.

On has to wonder, what happened to the claims that were made so fre-

quently, particularly in the election year 2000, when then-candidate Bush, now President, talked about being a uniter, not a divider? It has been con-

stantly, and unfairly, that the American people, not divide them.”

With this abuse of power, the major-

ity is about to further divide our Na-

tion with the precision of a sledge-

hammer.

I want the American people to under-

stand what is going to happen on the

floor of the Senate if things go as planned. Vice President CHENEY, whom

we rarely see in this Chamber, is going to come here for the specific purpose of

breaking existing rules for the opera-

tion of the Senate. He is going to sit

in the Presiding Officer’s chair and do

something that, frankly, I don’t re-

member in my more than 20 years in

the Senate. He could intentionally mis-

state, if what we hear is what we are going to get, the rules of the Senate.

Think about the irony. Vice Presi-

dent CHENEY gets to help nominate Federal judges. The President objects to the administration’s choices, he is going to come over here and break our rules to let his judges through. Talk about abuse of power.

The Founding Fathers would shudder at the thought of this scenario. It runs counter to the entire philosophy of our Constitution. Our Constitution created a system that they thought would make it impossible for a President to abuse his powers.

Tomorrow, we are going to see what happens to a coup d’etat, a takeover right here in the Senate. The Senate, just like society at large, has rules. We make laws here and we brag about the fact that this is a country of laws. We make laws here and expect Americans to follow them. But if the majority leader wants the Senate to make it easier for the Republican Senators to change the rules when you don’t like the way the game is going. What kind of an example does that set for the world? Some may follow our own rules, why should the average American follow the rules that we make here?

If the majority leader wants to change the rules, there is a legal way to do it. A controversial Senate rule change is supposed to go through the Rules Committee. Once it reaches the full Senate for consideration, it needs 67 votes to go into effect. But rather than follow the rules, Vice President Bush is about to break the Constitution. He is going to come over here and change the rules by fiat. In other words, we will see an attempt to over-

throw the Senate as we know it.

Hopefully, some courageous Senators will step forward, vote their con-

science, and put a stop to this once and for all. There are several people who disagree with their leader on the Re-

publican side, and they have expressed their unwillingness to go through with this muscular takeover of the Senate.

In uniting the body, President Bush and the majority leader want to get rid of the filibuster because it is the only thing standing between them and absolute control of our Govern-

ment and our Nation. They think the Senate should be a rubber stamp for the President. That is not what our Found-

ers intended. It is an abuse of power, and it is wrong, whether a Republican or a Democrat lives in the White House.

I say to the American people: Please, get past the process debate here. Let’s not forget how important our Federal judges are. They make decisions about
what rights we have under our Constitution. They make decisions about whether our education and environmental laws will be enforced. They make decisions about whether we continue to have health care as we know it. And sometimes, let us not forget, they may even step in to decide a President's impeachment.

The Constitution says the Senate must advise and consent before a President's judicial nominations are allowed to take the bench. It doesn’t say advise and then they can’t say consent first and then advise. As Democratic leader Harry Reid recently said: George Bush was elected President, not king.

The Founding Fathers, Washington, Jefferson, and Madison, did not want a consensus government, particularly in a diverse society. It is about the reason that the separation of powers and the balance of powers were created by the Founders of this Republic in the first place. And it is ultimately about whether we recall our own history and the understanding of human nature itself, the occasional passions and excesses and deals of the moment that lead us to places that threaten consensus and the very social fabric of this Republic. It is about the value we place upon restraint in such moments.

Is it unreasonable to ask more than a simple majority be required for confirmation to lifetime appointments to the courts of appeal or the Supreme Court? The United States who will render justice and interpret the most fundamental, basic framing documents of this Nation? Should something more than a bare majority be required for lifetime appointments to positions of this importance and magnitude? I believe it should.

Should we be concerned about a lack of consensus on such appointees who will be called upon to rule upon some of the most profound decisions which inevitably touch upon the political process itself? I think my colleague, Senator Lautenberg, mentioned the decision in Gore v. Bush. And if a sizable minority of the American people come to conclude that individuals who are rendering these verdicts are unduly ideological or partisan or themselves, will this not undermine the respect for law and the political process itself and ultimately undermine our system of governance that brought us here? I fear it might. Essentially, aren’t these concerns—respect for the rule of law, respect for the independence of the judiciary, the importance of building consensus, and the need in times of crisis to lay aside the passions of the moment and understand the importance of restraint on the part of the majority—aren’t these concerns more fundamentally important to the welfare of this Republic than four or five individuals and the identities of those who will fill these vacancies? The answer to that must be, unequivocally, yes.

There are deeper concerns than even these, Mr. President. The real concerns that I have with regard to this debate have to do with the coarsening of America’s politics. In the 6½ years I have been honored to serve in this body, there have been just two moments of true unity, when partisanship and rancor and acrimony were placed

I want the American people to understand one thing: The big fight here is because the people who will get these positions have lifetime tenure. That means they could be here 20, 30, or 40 years.

I have faith in the courage of my colleagues across the aisle. I hope they are going to put loyalty to their country ahead of loyalty to a political party.

I yield the floor.

The PRESIDING OFFICER, The Senator from Indiana.

Mr. BAYH. Mr. President, I compliment my colleague from New Jersey for his eloquence and for his insight on the important role the filibuster has always played in building consensus in our society.

It is unfortunate that we are here. It is unfortunate for this institution. It is unfortunate for the Members of this body. It is unfortunate for our country and for the political process that governs us all.

Mr. President, let there be no illusions. There will be no winners here. All will lose. The victors, in their momentary triumph, will find that victory is a fool’s brew that will nurture their resentments until the tables one day turn, as they inevitably will, and the recrimination cycle will begin anew.

This sorry episode proves how divorced from reality are America Washington and the elites that too often govern here have become. At a time when Americans need action on health care, the economy, deficit, national security, and at a time when challenges form around us that threaten to shape the future, we are obsessing about the rules of the Senate and a small handful of judges. At times like this, I feel more like an ambassador to a foreign nation than a representative of my home state.

This episode feeds the cynicism and apathy that have plagued the American people for too long. It brings this institution and the process that has brought us here into disrepute and low esteem. No wonder so few of our citizens take the time to exercise even the most elementary act of citizenship—the act of going to the polls to vote.

Very briefly, let me say what this is all about, but let me begin by saying what it is most definitely not about. This is not about the precedents and history of this body. It has been interesting to sit silently and observe colleagues on both sides of the aisle make appeals to precedent and history, and both do so with equal passion. History will not provide an answer to this situation that confronts us. It is not about whether nominees get an up-or-down vote. In fact, it is about the threshold for confirmation that nominees should be held to, a simple majority or something more. It is not about whether the precedents and history of this body, there have been just two moments of true unity, when partisanship and rancor and acrimony were placed

which is a high percentage by any reckoning. This debate is not about whether or not there are ideological or partisan tests being applied to nominees. I would assume that the 200-some nominees sent to us by this President are the most part of his party, that most share his ideology, and yet more than 200 have been confirmed. There are no litmus tests here.

Mr. President, this is really about the value we, as a people, place upon consensus in a diverse society. It is about the reason that the separation of powers and the balance of powers were created by the Founders of this Republic in the first place. And it is ultimately about whether we recall our own history and the understanding of human nature itself, the occasional passions and excesses and deals of the moment that lead us to places that threaten consensus and the very social fabric of this Republic. It is about the value we place upon restraint in such moments.

Is it unreasonable to ask more than a simple majority be required for confirmation to lifetime appointments to the courts of appeal or the Supreme Court? The United States who will render justice and interpret the most fundamental, basic framing documents of this Nation? Should something more than a bare majority be required for lifetime appointments to positions of this importance and magnitude? I believe it should.

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There are deeper concerns than even these, Mr. President. The real concerns that I have with regard to this debate have to do with the coarsening of America’s politics. In the 6½ years I have been honored to serve in this body, there have been just two moments of true unity, when partisanship and rancor and acrimony were placed
aside. First was in the immediate aftermath of the first impeachment of a President since 1868 and the feeling that perhaps we had gone too far. The second was in the immediate aftermath of 9/11, when our country had literally been shaken and there was a palpable understanding that we were not Republicans or Democrats, but first and foremost Americans. It is time for us to recapture that spirit once again.

Today, all too often, we live in a time of constant campaigns and politicking, an atmosphere of win at any cost, an aura of ideological extremism, which makes principled compromise a vice, not a virtue. Today, all too often, it is the political equivalent of social Darwinism, the survival of the fittest, a world in which the strong do as they will and the weak suffer what they must. America deserves better than that.

I would like to say to you, Mr. President, and to all my colleagues, that you, too, have suffered at our hands. Occasionally, we have gone too far. Occasionally, we have behaved in ways that are injudicious. I think particularly about the President's own brother, who was brought to the brink of personal bankruptcy because he was pursued in an investigation by the Congress, not because he had plundered his savings and loan, but because he happened to be the President's brother. Each of us is to blame, Mr. President. More wittily, each of us has a responsibility for taking us to the better place that the American people have a right to deserve.

There is a need for unity in this land once again. We need to remember the words of a great civil rights leader who once said: We may have come to these shores on different ships, but we are all in the same boat now.

We need to remember the truth that too much is lost in life if we don't want to understand; that, in fact, we have more in common than we do that divides us. We are children of the same God, citizens of the same Nation, one country indivisible, with a common heritage forged in a common bond and a common destiny. It is about time we started behaving that way. We need to remember the words of Robert Kennedy, who was in my home State the day Martin Luther King was assassinated. Indianapolis was the only city that re-elected the vice-president of the United States—that careful balancing of majority power and minority rights.

Unfortunately, these days in Washington we are on the verge of upsetting that balance, of using majority power to undermine minority rights. In doing so, we are stilling the voices of millions of Americans—the millions of Americans that we represent—and not just geographically, but also, I think, in terms of their participation in the political process. We are seeing people who are committed to an ideological agenda being presented to us who will, I think, undermine that sense of confidence that the American people must have in the judges they face in the courts of this land.

Indeed, it is also ironic that today as we discuss this issue of eviscerating minority rights in the United States Senate, we hear our leaders talk about the necessity—the absolute necessity—of protecting the minority in Iraq. If you listen to the President, Secretary of State Rice, and others, they talk about how essential it is to ensure that there are real procedural protections for the Sunni minority in Iraq. In fact, what they are trying to do in Iraq they are seeking to undo in America by stripping away those procedural protections that give the minority a real voice in our Government.

In a recent National Review article by John Cullinan, a former senior policy adviser to the U.S. Catholic Bishops, he said it very well. He posed a question in this way: Will Iraq's overwhelming Shiite majority accept structural restraints in the form of guaranteed protections for others? Or does the majority see its demographic preponderance as a mandate to exercise a monopoly of political power?

This, in a very telling phrase, sums it up:

Does a 60-percent majority translate into 100 percent of the political pie?

The question we will answer today, tomorrow, and this week: Does the 55-vote majority in the Senate translate to 100 percent of the political pie when it comes to naming Federal judges? Does the majority see its demographic preponderance as a mandate to exercise a monopoly of political power, without the ability of the minority to exercise their rights, to raise their voice, this process is
doomed to a very difficult and, I think, disastrous end.

We have today measures before us that threaten the filibuster, and I believe this is not the end of the story if this nuclear option prevails because I think that by the interest groups that are pushing this issue—the far right who are demanding that this nuclear option be exercised—will not be satisfied by simply naming judges because that is just part of what we do. They have said that the days ahead, if this nuclear option succeeds, opportunities to strike out our ability to stop legislative proposals, to stop other Executive nominees. They will be unsatisfied and unhappy that in the course of debate and deliberation here, we are not willing to accept their most extreme views about social policy, about economic policy, about the world at large. The pressure that is building today will be brought to bear on other matters.

So this is a very decisive moment and a step. I hope we can avoid stepping over it into the abyss. I hope we can maintain the protections that have persisted in this Chamber in one form or another for 214 years. The rules give Senators many opportunities to express themselves. It is not a cloture vote. There are procedures to call committee hearings, to call up nominees that have been appointed, that also give Senators an opportunity to express themselves.

If one recalls many people here at least 60 of President Clinton's judicial nominees never received an up-or-down vote, and it is ironic, to say the least, that many who participated in that process now claim a constitutional right for an up-or-down vote on a Federal nominee to the bench.

In fact, according to the Congressional Research Service, since 1945, approximately 18 percent of judicial nominees have not received a final vote. The Senate in 1995, however, has done remarkably well by his nominees—218 nominees, 208 confirmations, a remarkable record, which shows not obstruction but cooperation; which shows that this Senate, acting together, with at least 60 votes, but still exercising its responsibility to carefully screen judges has made decisions that by a vast majority favor the President's nominees. That is not a record of obstruction, that is a record of responsibility.

Again, at the heart of this is not simply the interplay of Senators and politics. At the end of the day, we have to be able to demonstrate to the American public that if they stand before a Federal judge, they will be judged by men and women with judicial temperament, who understand not only the law and precedent, but understand they have been given a responsibility to do justice, to demonstrate fairness.

If we adopt this new procedure and are able to ram through politically, ideologically motivated judges, that confidence in the fairness of federal judges might be fatally shaken and that would do damage to this country of immense magnitude.

The procedure that is being proposed is not a straightforward attempt to change the rules of the Senate because that also requires a supermajority. No, this is an attempt to run around the rules of the Senate, a circumvention, and a circumvention that will do violence to the process here and, again, I think create a terrible example for the American public.

Mr. President, the Senate must remain a place where even an individual Senator can stand up and speak in such a way and at such length that he not only arouses the conscience of the country, but, indeed, should under any circumstances, may be able to deflect the country away from a dangerous path.

In the 1930s, President Roosevelt also had problems with the court system, he thought. He decided he would pack the Supreme Court. This is not the first time that it has been tried. Sadly, there have been a few other efforts to amend the rules by fiat, but, and this is the crucial point, the Senate has never done it.

Whenever an effort was made to change the rules by fiat, it has been rejected by this body. There are procedures for amending the Senate's rules, and the Senate has always insisted that any change should be by a supermajority. No, the nuclear option be exercised, will do violence to the process, it will do violence to the American public. This is not the first time that it has been tried. Sadly, there have been a few other efforts to amend the rules by fiat, but, and this is the crucial point, the Senate has never done it.

Significantly, 23 Democratic Senators, nearly half of the Democrats voting, together, with at least 60 votes, but still exercising its responsibility to carefully screen judges has made decisions that by a vast majority favor the President's nominees. That is not a record of obstruction, that is a record of responsibility.
opposed the ruling by the Vice President of their own party. Later, the Senate, using the process provided by Senate rules, by a vote of 63 to 23, adopted a change in rule XXII to include a motion to proceed. After that rule change, changed according to the procedures for amending rules, a supermajority could end a debate on the motion to proceed to a bill, for instance, as well as ending debate on the bill itself.

Last week, I quoted the words of one of the greatest Senate history, Senator Arthur Vandenberg of Michigan about that debate. This is what Senator Vandenberg said:

I continue to believe that the rules of the Senate are as important to equity and order in the Senate as is the Constitution to the life of the Republic, and that those rules should never be changed except by the Senate itself, in the direct fashion prescribed by the rules themselves.

Senator Vandenberg continued:

One of the immutable truths in Washington’s Farewell Address, which cannot be altered even by changing events in a changing world, is the following sentence: “The Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all.”

Senator Vandenberg continued:

When a substantive change is made in the rules by maintaining a ruling by the Presiding Officer of the Senate—and that is what I contend is being undertaken here—it does not mean that the rules are permanently changed. It simply means, that regardless of precedent or traditional practice, the rules, hereafter, mean whatever the Presiding Officer of the Senate voting at the time, want the rules to mean. We fit the rules to the occasion, instead of fitting the occasion to the rules. Therefore, in my analysis, under such circumstances, there are no rules except the transient, unregulated wishes of a majority of whatever quorum is temporarily in control of the Senate.

And Senator Vandenberg added:

That, Mr. President, is not my idea of the greatest deliberative body in the world. . . . No matter how important the (pending issue’s immediate) incidence may seem today, the Senate's rules are our paramount concern, today, tomorrow, and so long as this great institution lives.

Senator Vandenberg continued:

This is a solemn decision—reaching far beyond the immediate consequence—and involves the essential operation. What do the present Senate rules mean; and for the sake of law and order, shall they be protected in that meaning until changed by the Senate itself, in the fashion required by the rules?

Senator Vandenberg eloquently summarized what is at the root of the nuclear option:

...[The rules of the Senate as they exist at any given time and as they are clinched by precedent and usage] must not be changed substantively by the interpretive action of the Senate’s Presiding Officer, even with the transient sanction of an equally transient Senate majority. The rules can be safely changed only by the direct and conscious action of the Senate itself, acting in the fashion prescribed by the rules. Otherwise, no rule in the Senate is worth the paper that it is written on, and this so-called “greatest deliberative body in the world” is at the mercy of its own majority.

Mr. President, tonight, I do more than underscore the foresightful words of Senator Vandenberg, which are all the more significant because, as he made clear, he agreed that the Senate’s rules are to change in the fashion proposed but not by using the illegitimate process proposed of amending our rules by fiat of a Presiding Officer.

There was even more to it—and it is again directly relevant to the proceeding that is pending. The year was 1948, 1 year before the Barkley ruling which I just described. Senator Vandenberg was President pro tempore of the Senate and was presented with a motion to end debate on a motion to proceed to consideration of an antipoll tax bill.

Senator Vandenberg ruled, as Presiding Officer, that the then-language of rule XXII, providing a procedure for terminating debate on measures before the Senate, did not apply to cutting off debate on the motion to proceed to a measure, even though he thought that it should on the merits. So he ruled against what he believed in on the merits because of his deep belief in the integrity of the Senate and in making that ruling, again while serving as the Presiding Officer, this is what Senator Vandenberg said:

The President pro tempore (that’s him) finds it necessary, . . . before announcing his decision, to state again that he is not passing on the merits of the poll-tax issue nor is he passing on the desirability of a much stronger cloture rule in determining this point of order. The President pro tempore is not entitled to consult his own predilections or his own convictions in the use of this authority, but rather, the authority as an officer of the Senate, under oath to enforce its rules, to mean. We fit the rules to the occasion, in the fashion required by the rules by sustaining a ruling by the Presiding Officer.

Senator Vandenberg then went on to say:

If the Senate wishes to cure this impotence it has the authority, the power, and the mandate to do so. Therefore, the rules of the Senate do not have the authority, the power, or the means to do so except as he arbitrarily takes the law into his own hands. This he declines to do in violation of his oath. If he did so, he would feel that the what might be deemed temporary advantage by some could become a precedent which ultimately, in subsequent practice, would rightly be condemned by all.

I want to emphasize Senator Vandenberg’s point for our colleagues. In the view of that great Senator, it would have been a violation of his oath of office to change the Senate rules by fiat to rule, as President pro tempore, contrary to the words of the Senate, even though he personally agreed with the proposition that the rule needed to be changed. Senator Vandenberg’s ruling was a doubly difficult one because if it left the Senate with no means of cutting off debate and the motion to proceed to a measure. The Senate then voted to change the rule a year or so later, with Senator Vandenberg’s support, to allow for cutting off debate on the motion to proceed.

Senator Vandenberg’s words and his example are highly relevant to us today. The majority leader’s tactic to have the Presiding Officer by decree, by fiat amend our rules by exercising the so-called nuclear option is wrong. It has always been wrong. And the Senate has rejected it in the past.

I want to simply read that one last line of Senator Vandenberg one more time:

In his capacity as a Senator, the President pro tempore [Senator Vandenberg] favors the passage of the anti-poll-tax measure [before him].

He has voted for it on similar occasions, he said.

In his capacity as President pro tempore [he believes the rules of the Senate should permit cloture on the pending motion to take up the . . . measure. But . . . and this is the “but” which everybody in this Chamber should think about—in his capacity as President pro tempore the senior Senator from Michigan is bound to recognize what he believes to be the clear mandate of the Senate rules and the Senate precedents; namely that no such authority presently exists.

For him to rule as President pro tempore against the clear meaning of rule XXII, to do so. The President pro tempore of the Senate from Michigan is bound to recognize what he believes to be the clear mandate of the Senate rules and the Senate precedents; namely that no such authority presently exists.
Rule XXII is clear. It takes 60 votes to end debate on any measure, motion, or other matter pending before the Senate. It does not make an exception for nomination of judges. The nuclear option is not an interpretation of rule XXII. It is head long into the heart of rule XXII. What in this body are the custodians of a great legacy. The unique Senate legacy can be lost if we start down the road of amending our rules by fiat of a Presiding Officer. We are going to be judged by future generations for what we do here this week, Arthur Vandenberg, look up when we leave this Chamber at Arthur Vandenberg’s portrait in the Senate reception room alongside of just six other giants for more than 215 years of Senate history.

As the present-day custodians of the great, Senate tradition, we should uphold that tradition by rejecting an attempt to change the rules by arbitrary decree of the Presiding Officer instead of by the process in our rules for changing our rules. We must reject that attempt to rule by fiat instead of by duly adopted rules of the Senate. In that way, we will pass on to those who follow us a Senate that is enhanced, not diminished, by what we do here this week.

Mr. ALEXANDER. Mr. President, I would like to take a moment to remind my colleagues across the aisle just what the Constitution has to say about the confirmation of judges.

In a recent speech on the filibuster of President Bush’s judicial nominees, I cited the actions of Senator BYRD when he was majority leader in 1979 as justification for the proposed constitutional option. However, the historical precedent for the actions the Minority is forcing the majority to take goes much further back than even the tenure of the Senator from West Virginia.

The power to confirm or deny the President’s judicial nominees because the Constitution explicitly grants us that power. Article II, section 2 reads:

He [the president] shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, which shall be established by law.

The President gets to nominate a judge, but only with the consent of the Senate is that judge actually appointed to serve.

The Constitution is not totally clear on the surface as to what should constitute “advice and consent” by the Senate. But, fortunately, our Founding Fathers provided us with not just a Constitution but with a whole raft of writings that help us understand just what they were thinking when they drafted it. Those records confirm, I believe, that they were not concerned with a clash between political parties when they wrote the Constitution, but with the balance of power between the executive, legislative, and judicial branches.

The history of the “advice and consent” clause suggests that the Founders were uncomfortable with either branch completely controlling the nomination of judges. As a result, they found a compromise that sought to prevent either the executive or the legislative branch from dominating the nomination process.

In the Constitutional Convention of 1787, there was lengthy discussion about who should appoint judges to the bench—the executive or the legislative branch.

After extensive debate, the delegates to the Constitutional Convention rejected the possibility that the power to elect judges would reside exclusively with one body or another. On June 5, 1787, the Records of the Federal Convention record James Madison’s thoughts on the issue:

Mr. Madison disliked the election of the Judges by the Legislature or any numerous body. Besides the danger of intrigue and partiality, many persons were not judges of the requisite qualifications. . . . On the other hand he was not satisfied with referring the appointment to the Executive.

Madison was concerned that vesting the sole power of appointment in the executive would lead to bias and favoritism.

In the end, the Framers of the Constitution arrived at the language I just read. Should there be any doubt as to what was intended, Alexander Hamilton and others provided us with the Federalist papers. In Federalist 76, Hamilton discusses the nominations clause:

his [referring to the president] nomination may be overruled; this it certainly may, yet it can only be to make a place for another nomination by himself. The person ultimately selected must be the object of his preference. Let me emphasize that—Hamilton says the person elected is ultimately the object of the president’s preference. That suggests to me that it is not up to the Senate to demand that nominees be withdrawn and that others be nominated in accordance with the leadership in the Senate or the home State senators of the nominee. It sounds to me like the Framers intended for the president to choose and then the Senate to either reject or accept the nominee.

However, I would argue that we don’t even need to look to Hamilton to decide that the eventual appointee should be the object of the president’s preference. Look where the power to nominate and appoint is placed in the Constitution—in article II, which sets out the powers of the President—not Congress.

In Federalist 76, Hamilton goes on to describe the role of the Senate:

To what purpose then require the cooperation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unsuitable characters from family connection, from personal attachment, or from a view to popularity.

Nowhere in that description of the Senate’s role does it suggest that the Senate is supposed to make nominations based on judges’ views of the issues. It suggests that we are here to prevent the president from appointing only nominees from Texas, from appointing only friends or campaign contributors, or from abusing this power. It does not suggest that we should go through a lengthy process of trying to anticipate how a particular judge would rule on all future cases that may come before him or her.

In fact, given that it was the intent of the Founders to create an appointments process that would allow for the appointment of judges who could serve as a check on the other two branches, I think they would be appalled to think that the Senate might be prepared to block any judges that will not rule on abortion or gay marriage or the reinsertion of a feeding tube in the way the Senate happens to favor at any one time. That sounds to me like anything but an independent judiciary branch.

What’s next? Will senators ask judges how they will rule on pending bills and support only those judges who will uphold the laws passed by this body?

The role of the Senate having been established, I also want to address the mechanism by which we confirm these judges.

The issue before us centers around whether the Constitution requires a simple majority or a supermajority to confirm judicial nominations. Once again, an analysis of the history suggests that it was the intention of the Framers to provide for only a simple majority of the Senate to confirm nominees.

Look at the language of all of article II, section 2. In the clause immediately before the nominations clause, the Constitution specifically calls for two-thirds of the Senate to concur. In the nominations clause, there is no such provision.

I don’t believe that this is an inadvertent omission. During the drafting of the Constitution, Roger Sherman of Connecticut argued at great length for the inclusion of a comma instead of a semicolon at one point to make a section on Congressional powers crystal clear. I find it hard to believe that in the meantime the Framers deliberately left this section vague.

In fact, the body around this section of the bill suggests that there was a specific discussion about how many Senate votes would be required to confirm judges. On July 18, 1787, James Madison proposed a plan that would allow judges to be confirmed with only a simple majority of the Senate. The record of the debate states that Madison felt that such a requirement would “unite the advantage of responsibility in the
Executive with the security afforded in the second branch against any incan-
tious or corrupt nomination by the Ex-
cutive.’’

So that sounds to me like the Fram-
ers viewed the role of the Senate in such consider the possibility that even less than a majority could be required to confirm a judge—because the Senate was there as back-
stop to prevent the appointment of po-
itical cronies and unfit characters. That is a far cry from the role my col-
leagues and I would like for us to play today—that of co-equal to the presi-
tent in the process and capa-
ble of demanding nominees that would rule in favor of their positions.

Madison’s language was not adopted, but the language that was adopted cer-
tainly cannot be read to require a supermajority. You don’t have to just ac-
cept my interpretation of this lan-
guage. Shortly after the Constitutional Convention, Justice Joseph Story—ap-
pointee to the Supreme Court by Presi-
dent James Madison—wrote his Com-
mentaries on the Constitution and stated explicitly:

The president is to nominate, and thereby has the sole power to select for office; but his nomination is open to rejection by the Senate, unless approved by a majority of the Senate.

Judges are to be confirmed by a ma-
jority vote. That is the bottom line. That decision was made long before the first Senate was gavelled into session and before any thought was given to rules of procedure and filibusters.

You will hear during this debate omi-
nous warnings from my colleagues across the aisle about “the tyranny of the majority.” You will hear that the Founders intended for the Senate to protect the rights of the minority. You will hear that our Founders created the Senate as a check on the popular whim of the day, as a place to slow down leg-
islation and ensure that only the very best is passed. This is true. George Washington is said to have said of the Senate that “we pour legislation into the senatorial saucer to cool it.”

But the Founders did not create the Senate to give a minority of Senators the power to stop the President from appointing judges. Quite the opposite. As I have outlined, James Madison and Alexander Hamilton, two of the great-
est minds that helped design our Con-
stitution, put it down in writing for us that judges are to be confirmed by a majority vote.

So it is not a new idea for the major-
ity in the Senate to believe they should have the power to confirm the presi-
dent’s nominees. It is a very old idea that dates back to the founding of our country.

It is a new idea, however, that a mi-
nority should have the power to deny the President’s choice. The minority used the filibuster rule in the Senate 10 times in the last Congress to create this new idea that 40 percent should be able to thwart the will of both the President and the majority. It is time for us to restore the Senate to the op-
eration envisioned by the Founding Fa-
thers more than 200 years ago that the President’s judicial nominees should be able to be confirmed by majority vote.

Mr. President, 2 years ago, my first speech as a Member of the Senate was on the topic of judges. I have spoken many times on this same subject. I would like to not talk about it again—other than to discuss the merits of a particular judge before hav-
ing an up-or-down vote on confirmation.

That is the way we have functioned in the past, it is the way the Founders meant for us to operate, and it is the way the American people should de-
mand their elected representatives work together.

Mr. LEAHY. Mr. President, I have made no secret how I regard the Repub-
lican Leader’s bid for one-party rule through his insistence to trigger the “nuclear option.” I view it as a mis-
guided effort to short-circuit the checks and balances that the Senate provides in our system of government, undermine the rights of the American people, weaken the independence and fairness of the Federal courts, and de-
stroy minority rights here in the Sen-
ate. That decision was made long before the
majority vote. That is the bottom line.

The Constitution nowhere says that the votes on nominations are constitutionally re-
quired, now contend that the votes on executive branch nominees because one
Democratic Senators from President Roosevelt’s own party—stood up to him. In May 1937 the Senate Judiciary Com-
mittee recommended to President Roosevelt’s nomination of John Rutledge as the Court-packing plan as an effort by the executive branch to dominate the Judi-

cial Branch with the acquiescence of the legislative branch. The Senate stood up for checks and balances and pushed the independent role of the judi-

cial branch. It is time again for the Senate to stand up, and I hope that there are Senators of this President’s party who have the courage to do so, today.

The Constitution nowhere says that judicial confirmations require 51 votes. Indeed, when Vermont became the 14th State in 1791, there were then only 28 Members of the U.S. Senate. More re-
cently, Supreme Court Justices Sher-
man Minton, Louis Brandeis, and James McReynolds were confirmed with 48 votes, 47 votes and 44 votes, re-
spectively.

As the Republican leader admitted in
debate with Senator BYRD last week, there is also no language in the Con-
stitution that creates a right to a vote for a nomination or a bill. If there were such a right, it was violated more than 60 times when Republicans refused to consider President Clinton’s judicial nominees. According to the Congres-

sional Research Service, more than 500 judicial nominations for circuit and district courts have not received a final Senate vote between 1945 and 2004—over 500—that is 18 percent of those nominations. By contrast, this Presi-
dent has seen more than 95 percent of his judicial nominations confirmed, 200 to date.

The Constitution provides for the Senate to establish its own rules in ac-
cordance with article I, section 5. The Rules Committee has for some time ex-
pressly provided for nominations not acted upon by the Senate—“neither confirmed nor rejected during the session at which they are made”—being “returned by the Secretary to the President.” That is what happened to those 500 nominations over the last 60
years.

What the Republican leadership is seek-
ing to do is to change the Senate rules not in accordance with them but by 

The majority, 53 Republican Senators, who prevented votes on more than 60 of President Clinton’s judicial nominees and hundreds of his executive branch nominees because one anonymous Republican Senator ob-
jected, now contend that the Senate should have the right to hold a vote on his judicial nominations when confirmed, 200 to date.

No President in our history, from George Washington on, has ever gotten
all his judicial nominees confirmed by the Senate. President Washington’s nomination of John Rutledge to be Chief Justice of the U.S. Supreme Court was not confirmed by the Sen-
ate. Senate Republicans now deny the
filibusters they attempted against President Clinton’s judicial nominees and they ignore the filibusters they succeeded in using against his executive branch nominees. They seek not to rewrite history. I ask that a copy of the recent article by Professor John J. Flynn be included in the RECORD.

Helping to fuel this rush toward the nuclear option is new vitriol that is being heaped both upon those who oppose a handful of controversial nominees and oppose the nuclear option, as well as on the judiciary itself. We have seen threats from House Majority Leader TOM DELAY and others about mass impeachments of judges with whom they disagree. We have seen Federal judges compared to the KKK, called “the focus of evil,” and we have heard those supporting this effort quote Joseph Stalin’s violent answer to anyone who opposed his totalitarianism from the formula “One man, No problem.” Stalin killed those with whom he disagreed. That is what the Stalinist solution is to independence. Regrettably, we have heard a Senator trying to relate the recent rash of courtroom violence and the rash of courtroom violence and the killings of judges and judges’ family members with philosophical differences about the way some courts have ruled.

This debate in the Senate last week started with rhetoric from the other side accusing disagreeing Senators of seeking to “kill” and “assassinate.” Later in the week another member of the Republican leadership likened Democratic opponents of the nuclear option to Adolph Hitler. Still another Republican Senator accused Senators who oppose judicial nominees of discriminating against people of faith. This is in direct violation of the Republican leader’s own statement at the outset of this debate that the rhetoric in this debate should “follow the rules and best traditions of the Senate.” This has sunk too low and it has got to stop.

It is one thing for those outside the Senate to engage in incendiary rhetoric. In fact, I would have expected Senators and other leaders to call for a toning down of such rhetoric rather than participating and lending support to events that unfairly smear Senators as against people of faith. Within the last two weeks the Rev. Pat Robertson counseled Federal judges, quote, “a more serious threat to America then Al Qaeda and the Sept. 11 terrorists” and “more serious than a few bearded terrorists who fly into buildings.” He went on to proclaim the Federal judiciary “the worst threat in American history” that has faced in 400 years worse than Nazi Germany, Japan, and the Civil War.” This is the sort of incendiary rhetoric that Republican Senators should be disavowing. Instead, they are adopting it and exploiting it in favor of their nuclear option.

It is base and it is wrong, and just the sort of overheated rhetoric that we should all repudiate. Not repeating such slander is not good enough. We should reject it and do so on a bipartisan basis. Republicans as well as Democrats should affirmatively reject such harsh rhetoric. It does not inspire; it risks insuring its success.

Last week as we began this debate, the Judiciary Committee heard the testimony of Judge Joan Lefkow of Chicago. She is the Federal judge whose mother and husband were murdered in this area. She told us that mass communication, harsh rhetoric is truly dangerous. [F]ostering disrespect for judges can only encourage those that are on the edge, or on the fringe, to exact revenge on a judge who ruled against them.” She urged us as public leaders to condemn such rhetoric. I agree with her. She is right and she has paid dearly for the right to say so.

Those driving the nuclear option engage in a dangerous and corrosive game in which anyone daring to oppose one of this President’s judicial nominees is branded as being anti-Christian, or anti-Catholic, or “against people of faith.” It continued over the last several days on the Senate floor. It is truly dangerous. It not only will demean the Senate and destroy the comity on which it depends; it also will undermine the strong, independent Federal judiciary that has protected the rights and liberties of all Americans against the overreaching of the political branches. Our Senate Parliamentarian and our Congressional Research Service have said that only two-thirds of the Senate would go against Senate precedent. Do Republicans really want to blatantly break the rules for short-term political gain? Do they really desire to turn the Senate into a place where the parliamentary equivalent of brute force is what prevails?

Just as the Constitution provides in article V for a method of amendment, so, too, the Senate rules provide for their own amendment. Sadly, the current crop of partisans who are seeking to limit debate and minority rights in the Senate have little respect for the Senate, its role in our government as a check on the executive, or its rules.

Republicans are in the majority in the Senate and chair all of its committees, including the Rules Committee. If Republicans have a serious proposal to change the Senate rules, they should introduce it. The Rules Committee should engage in debate, through deliberative processes and with all points of view being protected and being heard. That is not how the “nuclear option” will work. It is intended to work outside established precedents and procedures. Use of the “nuclear option” in the Senate is akin to amending the Constitution by following the procedures required by article V but by proclaiming that 50 Republican Senators and the Vice President have determined that every copy of the Constitution shall contain a new section—or not contain some of those troublesome amendments that Americans like to call the Bill of Rights?

Never in our history has the Senate changed its governing rules except in accordance with those rules. I was a young Senator in 1975 when Senate rule XXII was last amended. It was amended after cloture on proceeding to the resolution to change the rules invoked in accordance with rule XXII itself and after cloture on the resolution was invoked in accordance with the requirement then and still in our rules that ending debate on a rule change requires the concurrence of two-thirds of the Senate. That was achieved in 1975 due in large part to the extraordinary statesmanship and leadership of Senator BYRD. And then the Senate adopted the resolution, which I supported. The resolution reduced the number of votes needed to end debate in the Senate from two-thirds to three-fifths of those Senators duly chosen and sworn. The Senate has operated under these rules to terminate debate on legislative matters and nominations for the last 30 years. Before that the Senate’s requirement to bring debate to a close was even more exacting and required more Senators to vote to end a filibuster. I say, again, that the change in the Senate rules was accomplished in accordance with the Senate rules and the way in which they provide for their own amendment.

There has been a good deal of chest pounding on the other side of the aisle about the possibility of 51 votes to prevail, to end debate, to amend the Senate rules. Senators know that, in truth, there are a number of instances in which 60 votes are needed to prevail. These are not theoretical matters but matters that have been used by Republican leaders to thwart “majority” votes on matters they do not like.
The most common 60-vote threshold is what is required to prevail on a motion to waive a series of points of orders arising from the Budget Act and budget resolutions. In fact, just this year in the deficit-creating budget process, with Republican votes, they created new points of order that will require 60 votes in order to be overcome.

There are dozens of recent examples, but a few should make this concrete. In March of this year, majority of Senators voted to establish a Social Security and Medicare “lockbox.” That was a good idea. Had we been able to prevail then, maybe some of the problems being faced by the Social Security trust fund and Medicare might have been averted or mitigated. But even though 53 Senators voted to waive the point of order and create the lockbox, it was not adopted by the Senate.

There is another example from soon after the 9/11 attacks. A number of us were providing financial assistance, training and health care coverage for aviation industry employees who lost their jobs as a result of the terrorist attacks. We had a bipartisan coalition of more than 50 Senators; it was, I recall, 51. But the votes of 56 Senators were not sufficient to end the debate and enact that assistance.

I also remember an instance in October 2001, when I chaired the Foreign Operations Subcommittee of the Senate Appropriations Committee. I very much wanted the Senate do our job and complete our consideration of the funding measure necessary to meet the commitments made by President Bush to foreign governments and to provide life-saving assistance around the world. We voted on whether the Senate would be allowed to proceed to consider the bill—not to pass it, mind you, just to proceed to debate it. Republicans objected to considering the bill because they were required to make a formal motion to proceed to the bill. Then minority Senators, Republican Senators, filibustered proceeding to consideration of the bill. We were required to petition for cloture to ask the Senate to agree to end the debate on whether to proceed to consider the bill and begin that consideration. Fifty Senators voted to end the debate. Only 47 Senators voted to continue the filibuster. Still, the majority, with 50 votes to 47 votes did not prevail. Although we had a majority, we failed and the Senate did not make progress.

It happened again, in the summer of 2002, a bipartisan majority here in the Senate wanted to make progress on hate crimes legislation. The Senate got bogged down over the bill being filibustered. The effort to end the debate and vote up or down on the bill got 54 votes, 54 to 43. Fifty Senators voted to end the debate. Only 43 Senators voted to continue the filibuster. Did the majority prevail? No. The bill was not passed.

More recently, in 2004, 59 Senators supported a 6-month extension of a program providing unemployment benefits to individuals who had exhausted their State benefits. Those 59 Senators were not enough of a majority to overcome a point of order and provide the much-needed benefits for people suffering from extensive and longstanding unemployment. The vote was 59 to 40, but that was not a prevailing majority.

Around the same time in 2004 we tried to provide the Federal assistance needed to fund infertility care for individuals with Disabilities Education Act. Although 56 Senators voted in support and only 41 in opposition, that was not enough to overcome a point of order. The vote was 56 to 41, but that was not a prevailing majority.

Just last month, too recently to have been forgotten, there was an effort to amend the emergency supplemental appropriations bill to include the bipartisan Agricultural Jobs bill that Senator Craig and I championed. That amendment was filibustered and the Senate voted whether to end debate on the matter. The vote was 53 in favor of terminating further debate and proceeding to a long overdue measure. Were those 53 Senators, Republicans and Democrats, enough of a majority to have the Senate proceed to consider an up or down vote on the AgJobs bill to help those in need, including domestic violence survivors?

Every Senator knows, and others who have studied the Senate and its practices to provide an understanding, know that the Senate rules required a provision that requires a two-thirds vote to end debate on a proposed change to the Senate rules. Thus, rule XXII provides that ending debate on “a measure or motion” takes “two-thirds of the Senators present and voting.” If all 100 Senators vote, that means that 67 votes are required to end debate on a proposal to amend the Senate rules. In 1975, for example, the debate on the resolution I have spoken about to change the Senate rules was 73 to 21.

Every Senator knows that for the last 30 years, since we lowered the cloture number in 1975, it takes “three-fifths of the Senators duly chosen and sworn,” or 60 votes to end debate on other measures and matters brought before the Senate. Just recently there was a filibuster on President Obama’s nomination to head the Environmental Protection Agency, Douglas Johnson. Sixty-one Senators voted to end that filibuster, to bring that debate to a close, and Mr. Johnson was confirmed. I voted for cloture and for confirmation. Republican filibusters of Dr. Henry Foster to be the Surgeon General, Sam Brown to be an ambassador and others during the Clinton years, I considered the matter on its merits, as I always try to do, and voted to provide the supermajority needed for Senate action.

So when Republican talking points trumpet the sanctity of 51 votes, Senators know that the Republican majority insists upon 60-vote thresholds all the time, or rather all the time that it is in their short-term interests.

Finally, Mr. President, for purposes of the record, I need to set the record correctly. The Republican destruction of Senate rules and traditions was leading us to this situation. The administration and its facilitators in the Senate have left Democrats in a position where the only way we could effectively express our opposition to a judicial nominee was through the use of the filibuster.

We did not come to this crossroads overnight. No Democrat wanted to filibuster, not a one of us came to those votes easily. We hope we are never forced by an aggressive Executive and compliance majority into another filibuster for a judicial nominee again. The filibusters, like the consequences of the debt being forced into over the last several days, are the direct result of a deliberate attack by the current administration and its supporters here in the Senate against the rules and traditions of the Senate. The Republican majority to gut Senate rule XXII and prohibit filibusters that Republicans do not like is the culmination of their efforts. That is intended to clear the way for this President to appoint a more extreme and more divisive choice should a vacancy arise on the Supreme Court.

This is not how the Senate has worked or should work. It is the threat of a filibuster that should encourage the President to moderate his choices and work with Senators on both sides of the aisle. Instead, this President has politicized the process and Senate Republicans have systematically eliminated every other traditional protection for the minority. Now their target is the Senate filibuster, the only tool that was left for a significant Senate minority to be heard.

Under pressure from the White House, over the last 2 years, the former Republican chairman of the Senate Committee led Senate Republicans in breaking with longstanding precedent and Senate tradition with respect to handling lifetime appointments to the Federal bench. With the Senate and the White House under control of the same political party we have witnessed one committee rule after another broken or misinterpreted away. The Framers of the Constitution warned against the dangers of such factionalism, undermining the structural separation of powers. Our Republican leaders have utterly failed to defend this institution’s role as a check on the President in the area of nominations. It surely
weakens our constitutional design of checks and balances. As I have detailed over the last several years, Senate Republicans have had one set of practices to delay and defeat a Democratic President's moderate and qualified judicial nominees and a different playbook to rubberstamp a Republican President's extreme choices to lifetime judicial positions. The list of broken rules and precedents is long—from the way that home State senators were treated, to the way hearings were scheduled, to the way the committee questionnaire was unilaterally altered, to the way the Judiciary Committee's historic protection of the minority by committee rule IV was repeatedly violated. In the last Congress, the Republican majority of the Judiciary Committee destroyed virtually every custom and courtesy that had been used through-out Senate history to help create and enforce cooperation and civility in the confirmation process.

We suffered through 3 years during which Republican staff stole Democratic files off the Judiciary computers reflecting a "by any means necessary" approach. It is as if those currently in power believe that they are above our constitutional checks and balances and that they can reinterpret any treaty, law, rule, custom or practice they do not like or they find inconvenient. That mandates that the President seek the Senate's advice on lifetime appointments to the Federal bench. Up until 4 years ago, Presidents engaged in consultation with home State senators about judicial nominations, both trial court and appellate nominations. This consultation made sense: Although the judgeships are Federal positions, home State officials were best able to ensure that the nominees would be respected. The structure laid out by the framers for involving the State in the local application of the law in the appointments, and for almost 200 years, with relatively few exceptions, the system worked. This administration, by contrast, rejects our advice but demands our consent.

The sort of consultation and accommodation that went on in the Clinton years is an excellent example. The Clinton White House went to great lengths to work with Republican senators and seek their advice on appoint-ments to both circuit and district court vacancies. There were many times when the White House made nominations at the direct suggestion of Republican senators, and there are judges sitting today on the Ninth Circuit in Arizona, Utah, Mississippi, and many other places because President Clinton listened to the advice of senators in the opposite party. Some nominations, like that of William Traxler to the Fourth Circuit and the Ninth Circuit, were put to the Judiciary Committee's historic protection of the minority by committee rule IV.

To the Eleventh Circuit from Florida; Ted Stewart to the District Court in Utah; James Tellbory to the District Court in Arizona; Allen Pepper to the District Court in Mississippi; Barclay Surrick to the District Court in Penn-sylvania, and many others were made on the recommendation of Republican senators. Others, such as President Clinton's two nominations to the Supreme Court, were made with extensive input from Republican senators. For evidence of this, just look at ORRIN Hatch's book "Square Peg," where he tells the story of suggesting to President Clinton that he nominate Ruth Bader Ginsburg and Stephen Breyer to the Supreme Court and of warning him off of other nominees whose confirmations would be more controversial or politically divisive.

In contrast, since the beginning of its time in the White House, this Bush ad-ministration has sought to overturn traditions of bipartisan nominating to run roughshod over the advice of Democratic senators. They changed the systems in Wisconsin, Washington, and Florida that had worked so well for so many years. Senators Graham and Nelson were consulted; write in protests of the White House concerning flaunting of the time-honored procedures for choosing qualified candidates for the bench. They ignored the protests of senators like BARBARA BOXER and John Edwards in their nomination of persons not only of objection to, but unsuit-able nominees proposed by the White House, but who, in attempts to reach a true compromise, also suggested Rep-ublican alternatives. Those overtures were flatly rejected. Indeed, the problems we face today in Michigan are a result of a lack of consult-ation with that State's senators. The failure of the nomination of Claude Allen of Virginia to a Maryland seat on the Fourth Circuit shows how aggressive this White House has been. The White House counsel's office will say it informs Democratic sena- tors' offices of nominations about to be made. Do not be fooled. Consulta-tion involves a give and take, a back and forth, an actual conversation with the other party and an acknowledge-ment of the other's position. That does not happen.

The lack of consultation by this President and his nominations team re-sulted in a predictable outcome—a new Republican chair of the committee. The former Republican chairman of the Judiciary Committee went ahead, ignored his own perfect record of honoring Republican home State senators' objections to President Clinton's nominees and scheduled hearings nonetheless. In defense of those hear-ings we have heard how other chair-men, Senators KENNEDY and Biden, allowed for more fairness in the consider-ation of a more diverse Federal bench. That is not what the former Republican chairman was doing, however. His was a case of double standards—one set of rules and practices for honoring Rep-ublican objections to President Clint-on's nominees and another for over-riding Democratic objections to Presi-dent Clinton's. While it is true that various chair-men of the Judiciary Committee have used the blue-slip in different ways, some to maintain unfairness, and others to attempt to remedy it, it is also true that each of these chairmen was consistent in his application of his own policy—that is, until 2 years ago. When a hearing was held for Carolyn Kuhl, a nominee to the Ninth Circuit from California who lacked consent from both of her home State senators, that was the first time that the former chairman had ever convened a hearing for a judicial nominee who did not have two positive blue slips returned to the committee. The first time, ever. It was unprecedented and directly contrary to the former Republican chairman's practices during the Clinton years.

Consider the two different blue slips utilized by the former Republican Chairman: one used while President Clinton was in office and one used after George W. Bush became the Presi-dent. These pieces of blue paper are what then-Chairman Hatch used to solic-itize the opinions of home-state senators about the President's nominees. When President Clinton was in office, the blue slip was sent off of other nominees whose confirmations were flatly rejected. On the face of the form was written the following: "Please return this form as soon as possible to the nominations office. No further proceedings on this nominee will be sched-uled until both blue slips have been re-turned by the nominee's home state senators."

Now consider the blue slip when President Bush began his first term. That form sent out to senators was totally different. There was no request for Republican blue slips; instead, in the direction of the policy and prac-tice used by the former Republican chairman once the person doing the nominating was a Republican.

I understand why Republican senators want to have amnesia when it comes to the blue slips and all of the things, we have heard about any of President Clinton's nominees. The current Republican chairman calculates that 70 of President Clinton's judicial nominees were not acted upon. One of the many techniques used by the former Republican chairman was to enforce strictly his blue slip policy so that no nominee to any court received a hearing unless both home State senators agreed to it. Any objection acted as an absolute bar to the consideration of any nominee to any court. No time was ever set for a hearing of a Republican blue slip. No reason had to be articulated. In fact, the former Republican chair-man cloaked the matter in secrecy
from the public. I was the first Judiciary chairman to make blue slips public. During the Clinton years, the Senate’s blue slips were allowed to function as an anonymous holds on otherwise qualified nominees. In the 106th Congress, in 1999, more than half of the President’s nominees were denied confirmation through such secret partisan obstruction, with only 15 of 34 confirmed in the end. Outstanding and qualified nominees were allowed a hearing, an up or down vote in committee vote on or on the Senate floor. These nominees included the current dean of the Harvard Law School, a former attorney general from Iowa, a former law clerk to Chief Justice Rehnquist and many others—women, men, Hispanics, African Americans and other minorities, an extensive collection of qualified nominees. Another longstanding tradition that was broken in the last two years was a consistent and reasonable pace of hearings. Perhaps it is not entirely accurate to say the tradition had been respected during the Clinton administration, since during Republican control months could go by without a single hearing being scheduled. But as soon as the occupant of the White House changed and a Republican majority controlled the committee that all changed. In January, 2003, one hearing was held for three controversial circuit court nominees, scheduled to take place in the course of a very busy day in the Senate. There was no precedent for this in the years that Republicans served in the majority and a Democrat was in the White House. In 6 years during the Clinton administration, never once were there three circuit court nominees, let alone three very controversial ones, before this body in a single hearing. But it was the very first hearing that was scheduled by the former Republican chairman when he resumed his chairmanship. That first year of the 107th Congress, with a Republican chairman, and a Republican majority in the Judiciary Committee, the Republican majority went from idling—the restrained pace it had said was required for Clinton nominees—to overdrive for the most controversial of President Bush’s nominees.

When there was a Democratic President in the White House, circuit nominees were scheduled in advance to allow time for debate on the floor. When he resumed his chairmanship, that first year of the 107th Congress, with a Republican chairman, and a Republican majority in the Judiciary Committee, the Republican majority went from idling—the restrained pace it had said was required for Clinton nominees—to overdrive for the most controversial of President Bush’s nominees.

Under Republican control, the Judiciary Committee played fast and loose with other practices. One of those was the committee practice of placing nominees on markup agendas only if they had answered all of their written questions, and that meant the amount of time before the meeting. But Congress that changed, and nominees were listed when the former chairman wanted them listed, whether they were ready or not. Of course, any nominee can be held up by any member for any reason, according to longstanding committee rules. By listing the nominees before they were ready, the former chairman “burned the hold” in advance, circumvented the committee rule, and forced the committee to consider them before they were ready. Another element of unfairness was thereby introduced into the process.

Yet another example of the kind of petty changes that occurred during the last Congress were the bipartisan changes to the committee questionnaire that were unilaterally rescinded by the former Republican chairman. In April of 2003 it became clear that the President’s nominees had stopped filling out the Judiciary Committee questionnaire we had approved a year and a half earlier with the agreement of the administration and Senate Republicans. It was a shame, because my staff and Senator Hatch’s staff had labored to make the old questionnaire, which had not been changed in many years, and was in need of updating for a number of reasons. There were obsolete references, vague and redundant requests for information, and instructions sorely in need of clarification. There were also important pieces of information not asked for in the old questionnaire, including congressional testimony a nominee might have given, writings a nominee might have posted on the Internet, and a nominee’s briefs or other filings in the Supreme Court of the United States. We worked hard to include the concerns of all members of the committee, and we included the suggestions from many people who had been involved in the judicial nominations process over a number of years.

Indeed, after the work was finished, Senator Hatch himself spoke positively about the revisions we had made in the committee questionnaire, praising my staff for, “working with us in updating the questionnaires.” He noted: “Two weeks ago, we resolved all remaining differences in a bipartisan manner. We got an updated questionnaire that I think is satisfactory to everybody in the committee and the White House as well.” I accepted his words that day.

As soon as he resumed his chairmanship, he rejected the improvements we made in a bipartisan way, however. The former Republican chairman notified the Department of Justice that he would no longer be using the updated questionnaire he praised not so long before but, instead, decided that the old questionnaire be filled out. He did not notify any member of the minority party on the committee. Unlike the bipartisan consultation my office engaged in during the fall of 2001, and the bipartisan agreement we reached, the former Republican chairman ignored by unilateral fiat without consultation.

The protection of the rights of the minority in the committee was eliminated with the negation of the committee’s rule IV, a rule parallel to Senate Rule XXII. That rule provides the minority in the committee’s proceedings since 1979, the former Republican chairman chose in 2003 to ignore our longstanding committee rules and he short-circuited committee consideration of the circuit court nominations of John Roberts and Deborah Cook.

Since 1979 the Judiciary Committee has had this committee rule to bring debate on a matter to a close while preserving the rights of the minority. It may have been my first meeting as a Senator on the Judiciary Committee in 1979 that Chairman Kennedy, Senator Thurmond, Senator Hatch, Senator COCHRAN and others discussing this rule. Those of us on the Judiciary Committee, Senator Thurmond, Senator Hatch and the Republican minority at that time took a position against adding the rule and argued in favor of any individual Senator having a right to unlimited debate—so that every Senator could have a matter. Senator Hatch said that he would be “personally upset” if unlimited debate were not allowed. He explained:

There are not a lot of rights that each individual Senator has, but at least two of them are that he can present any amendments which he wants and receive a vote on it and number two, he can talk as long as he wants to as long as he can stand, as long as he feels strongly about an issue.

It was Senator Bob Dole who drew upon his Finance Committee experience in the 1970s that the committee rule be that “at least you could require the vote of one minority member to terminate debate.” Senator COCHRAN likewise supported having a “requirement that there be an extraordinary majority to shut off debate in our committee.”

The Judiciary Committee proceeded to redefine its consideration of what became rule IV, which was adopted the following week and had been maintained ever since. It struck the balance that Republicans had suggested of at least having one member of the minority before allowing the chairman to cut off debate. That protection for the minority had been maintained by the Judiciary Committee for 24 years under five different chairmen—Chairman Kennedy, Chairman Thurmond, Chairman Biden, under Chairman Hatch after the amendment and during my tenure as chairman.

Rule IV of the Judiciary Committee rules provided the minority with a
right not to have debate terminated and not to be forced to a vote without at least one member of the minority agreeing to terminate the debate. That rule and practice had until two years ago always been observed by the committee. When it dealt with the most contentious social issues and nominations that come before the Senate. Until that time, Democratic and Republican chairmen had always acted to protect the rights of the Senate minority.

Although it was rarely utilized, rule IV set the ground rules and the back-drop against which rank partisanship was required to give way, in the best tradition of the Senate, to a measure of bipartisanship in order to make progress. That is the important function of the rule. Just as we have been arguing lately about the Senate’s closure rule, the committee rule protected minority rights, and enforced a certain level of cooperation between the majority and minority. In order to accomplish anything, a quorum was required, a quorum for a vote.

That was lost last Congress as the level of partisanship on the Judiciary Committee and within the Senate sunk to a new low when Republicans chose to override our governing rules of conduct and proceed as if the Senate Judiciary Committee were a minor committee of the House of Representatives.

That was the backdrop for this debate now before the Senate. An overly aggressive executive, added by a majority of the same political party in the Senate, acted last Congress to eliminate any meaningful role of the minority at the committee level and to eliminate our traditions, rules and practices that had protected the minority. This abuse of power and drive toward one-party rule by the Republican leadership has been building for years and is culminating this week through their unprecidented attack on our rules, role and history. For years now, Democratic Senators have been warning that the deterioration of Senate rules and practices that have protected minority rights was leaving us, the Senate, and the American people in a dire situation.

This systematic and corrosive erosion of checks and balances has brought the Senate to this precipice. The filibuster in the Senate is the last remaining check on the power of one party rule and the undermining of the fairness and independence of the federal judiciary. If the Senate is to serve its constitutional role as a check on
the executive, its protection must be preserved. That is the decision the Senate will be facing tomorrow.

[From the Salt Lake Tribune] HATCH IS WRONG ABOUT HISTORY OF JUDICIAL APPOINTMENTS
(By John J. Flynn)
The Constitution provides the president "shall nominate, and the Senate shall, with the Advice and Consent of the Senate," appoint judges and all other officers of the United States. Throughout most of the Constitutional Convention, the framers expected the Senate to appoint ambassadors, judges and other officers of the United States was vested solely in the Senate. It was decided late in the convention that the Senate would share the appointment power with the president. Clearly, the framers expected the Senate would have an equal say in appointments.

Several nominations for positions in the executive branch have been rejected over the past two centuries. Even more nominations for life-time appointments to the judiciary have been rejected because such nominations are for life and they are nominations to an independent branch of government.

For many years rejections were often carried out by the informal process of senators withholding "blue slips" for nominees from their home states. When a senator did not return a blue slip approving the nomination, the nominee was not put to a vote by the full Senate. It was a method for insuring the president sought the "advice" of the Senate and senators before nominating a person for the judiciary. The result was that only qualified moderates were usually appointed to the bench.

Utah's Sen. Orrin Hatch ended the "blue slip" practice. Sen. Hatch also began the practice of "filibustering by committee chairperson" nominees proposed by President Clinton. He simply refused to hold hearings on nominations even where senators from the nominee's home state approved of the nomination.

More than 60 Clinton judicial nominees were not even accorded the courtesy of a hearing during the Hatch chairmanship of the Senate Judiciary Committee. They were never given the chance for an "up or down" vote by the full Senate. For Sen. Hatch to now object to the use of a filibuster to halt nominations is less than disingenuous.

Contrary to Sen. Hatch's representations in his Tribune op-ed piece last Sunday, Republicans led a filibuster of the nomination of Justice Abe Fortas to the position of chief justice of the United States. When a cloture vote failed to muster the necessary super majority to end the debate after four days of the filibuster, Justice Fortas asked to have his nomination withdrawn.

The modern divisiveness in the Senate over judicial nominations is directly traceable to the Senate's partisan treatment of judicial nominations with Justice Fortas. The level of divisiveness has been increased by President Bush. He threw down a partisan gauntlet by renominating several controversial candidates not confirmed by the prior Senate.

The main qualifications of these candidates appears to be their appeal to the religious right and their rigid ideological views calling into question their capacity to judge objectively contentious issues coming before the courts.

The Bush administration apparently believes that the Senate should simply rubber-stamp nominees it selects without Senate advice, much less the consent of a sizeable majority of senators. Sen. Hatch and other GOP senators have not only advised the president that they cannot support the nominees for the federal courts. Thus, the Constitution provides a role for both the President and the Senate in this process. The President is given the responsibility of nominating, and the Senate has the responsibility to render "advice and consent" on the nomination.

As I have fulfilled my constitutional responsibilities as a Senator over the past seven years that I have had the honor of representing the citizens of the Commonwealth of Virginia in the U.S. Senate, I have conscientiously made the effort to work on judicial nominations with the Presidents with whom I have served.

Whether our President was President Carter, President Bush, President Clinton, or President George W. Bush, I have accorded equal weight to the nominations of all Presidents, irrespective of party.

I have always considered a number of factors before casting my vote to confirm or reject a nominee. The nominee's character, professional career, experience, integrity, and temperament are all important. In addition, I consider whether the nominee is likely to interpret law according to precedent or impose his or her own views. The opinions of the officials from the State in which the nominee grew up and the views of my fellow Virginians are also important. In addition, I believe our judiciary should reflect the broad diversity of the citizens it serves.

These principles served me well as I have closely examined the records of thousands of judicial nominees.

With respect to the nominee currently before the Senate, I reviewed Justice Owen's record, met with her personally last week, and considered her qualifications in light of all of these aforementioned factors. And let me say, Mr. President, that I came away rather impressed with this nominee.

You see, out of the thousands of nominees I have reviewed in the U.S. Senate, I have to say that Justice Owen has, without a doubt, one of the more impressive records.

She earned her bachelor's degree, cum laude, from Baylor University. She then remained at Baylor to earn her law degree. While in law school, she served as a member of the Baylor Law Review. And, when she graduated from law school in 1977, she once again earned the honors of graduating cum laude.

Upon graduating from law school, Justice Owen took the Texas bar exam. Not only did she pass it, she earned the highest score in the State of Texas for the December 1977 exam.

Since passing the bar, she spent approximately 16 years practicing law in a distinguished Houston law firm. She started as a young associate and used her efforts as a commercial litigator she later became a partner at the firm.

In 1994, Priscilla Owen was first elected to the Texas Supreme Court. Six years later, she overwhelmingly won a second term with 81 percent of the vote—a strong testament of public support given to her by the citizens of the State of Texas.
But not only do the people of Texas overwhelmingly believe that Judge Owens is a highly qualified Federal judge, it is important to recognize that every major newspaper in Texas endorsed her reelection.

She has also noted bipartisan support for her nomination, including three former Democrat judges on the Texas Supreme Court and the bipartisan support of 15 past Presidents of the State bar of Texas. The American Bar Association, often called the ‘‘gold standard’’ for evaluating judicial nominees, has unanimously deemed Justice Owen ‘‘Well Qualified’’—its highest rating.

Despite all of this strong, bipartisan support, however, over the course of the past 4 years, we have been unable to get to an up-or-down vote in the Senate on Justice Owen’s nomination. All the while, this outstanding nominee has been waiting patiently for the Senate to act on her nomination. In my view, too many nominees should have been confirmed far sooner, especially since the seat for which she has been nominated has been dubbed by the Judicial Conference of the United States as a ‘‘judicial emergency.’’

The matter is this. Justice Priscilla Owen is a highly distinguished jurist with impeccable credentials. There is no doubt in my mind that she should be confirmed for this lifetime appointment.

I am voting in support of her nomination and encourage my colleagues to do the same.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DeMINT). The clerk will call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DeMINT). Without objection, it is so ordered.

Mr. FRIST. Mr. President, I have had the opportunity to review the agreement signed by the Senator from Virginia, the Senator from Arizona, the Senator from Nebraska, and 11 other Senators, an agreement that I have reviewed but to which I am not a party.

Let me start by reminding the Senate of my principle, a simple principle, that I have come to this Senate day after day, stating, stressing. It is this: I fundamentally believe it is our constitutional responsibility to give judicial nominees the respect and the courtesy of an up-and-down vote on the floor of the Senate. Investigate them, question them, scrutinize them, debate them in the best spirit of this body. But then vote, up or down, yes or no, confirm or reject, but each deserves a vote.

Unlike bills, nominees cannot be amended. They cannot be split apart; they cannot be held up; they cannot be killed. Our Constitution does not allow for any of that. It simply requires up-or-down votes on judicial nominees. In that regard, the agreement announced tonight falls short of that principle.

It has some good news and it has some disappointing news and it will require careful monitoring.

Let me start with the good news. I am heartened, very pleased, very pleased that each and every one of the judges identified in the announcement will receive the opportunity of that fair up-or-down vote. Priscilla Owen, after 4 years, 2 weeks, and 1 day, will have a fair and up-or-down vote. William Pryor, after 2 years and 1 month, will have a fair up-or-down vote. Janice Rogers Brown, after 22 months, will have a fair up-or-down vote. Three nominees will get up-or-down votes with certainty now because of this agreement, whereas a couple of hours ago, maybe none would get up-or-down votes. That would have been wrong.

With the confirmation of Thomas Griffith to the DC Circuit Court of Appeals we have been assured—though it is not agreed to in the agreement—there will be four who will receive up-or-down votes. And based on past comments in this Senate—although not in the agreement—I expect that David McKeague, after 3 years and 1 day, will get a fair up-or-down vote. I expect that Susan Neilson, after 3 years and 6 months, will get a fair or up-or-down vote. I expect Richard Griffin, after 2 years and 11 months, will get a fair or up-or-down vote.

Now, the disappointing news in this agreement. It is a shame that well-qualified nominees are threatened, still, with not having the opportunity to have the merit of their nominations debated on the floor.

Henry Saad has waited for 3 years and 6 months for the same courtesy. Henry Saad deserves a vote. It is not in this agreement. William Myers has waited for 2 years and 1 week for a fair up-or-down vote. He deserves a vote but is not in this agreement. If Owen, Pryor, and Brown can receive the courtesy and respect of a fair up-or-down vote, so can Myers and Saad.

I will continue to work with every thing in my power to see that these judicial nominees also receive that fair up-or-down vote they deserve. But it is not in this agreement.

But in this agreement is other good news. It is significant that the signers agreed to guarantee a return to good behavior, appropriate behavior, on the Senate floor and that when the gavel falls on this Congress, the 109th Congress, the precedent of the past 214 years will once again govern up-or-down votes on nominees.

I, of course, will monitor this agreement carefully as we move ahead to fill the pending 46 Federal vacancies today and other vacancies that may yet arise during this Congress. I have made it clear from the outset that I haven’t wanted to use the constitutional option. I do not want to use the constitutional option, but bad faith and return to bad behavior during my tenure as majority leader will bring the Senate back to the point where all 100 Members will be asked to decide whether judicial nominees deserve a fair up-or-down vote.

I do not hesitate to call all Members to their duty if necessary. For now, gratified that our principle of constitutional duty to vote up or down has been taken seriously and as reflected in this agreement, I look forward to swift action on the identified nominations.

Now, the full impact of this agreement will await its implementation, its full implementation. But I do believe that the good faith and the good behavior that we witnessed in this agreement are important. It was deployed in the last Congress in the last 2 years. The filibuster was abused in the last Congress. Mr. President, 10 nominees were blocked on 18 different occasions, 18 different filibusters in the last 2 years alone, with a leadership-led minority party obstruction that threatened filibusters on six others. That was wrong.

It was not in keeping with our precedents over the past 214 years. It made light of our responsibilities as United States Senators under the Constitution. It was a miserable chapter in the history of the Senate and brought the Senate to a new low.

Fortunately, tonight, it is possible this unfortunate chapter in our history can close. This arrangement makes it much less likely—indeed, nearly impossible—for such mindless filibusters to erupt on this floor over the next 18 months. For that, I am thankful. Circuit Court and Supreme Court nominees face a return to normalcy in the Senate where nominees are considered on their merits. The records are carefully examined. They offer testimony. They are questioned by the Senate Judiciary Committee, the Senate moves to act, and then the Senate discharges its constitutional duty to vote up or down on a nominee.

Given this disarmament on the filibuster and the assurance of fair up-or-down votes on nominees, there is no need at present for the constitutional option. With this agreement, all options remain on the table, including the constitutional option.

If it had been necessary to deploy the constitutional option, it would have been successful and the Senate would have, by rule, returned to the precedent in the past 214 years. Instead, tonight, Members have agreed that this precedent of up-or-down votes should be restored and behavior as a result of the mutual trust and good will in that agreement.

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It was not in keeping with our precedents over the past 214 years. It made light of our responsibilities as United States Senators under the Constitution. It was a miserable chapter in the history of the Senate and brought the Senate to a new low.
I am also gratified with how clearly the Democratic leader has repeated over and over again during this debate how much he looks forward to working with us, and I with him, as we move forward on the agenda of the 109th Congress. Our relationship has been forged in intense debate, and I know has been leavened by friendship. I look forward to working with him as we work together to move the Nation’s agenda forward together.

We have a lot to do, from addressing those threats to our own national defense and homeland security, to reinforcing a bill that hopefully will come very soon, addressing our energy independence, our role as a reliable and strong trading partner, to an orderly consideration of all the bills before us about funding, and to put the deficit on the decline. I look forward to working with the Democratic leader on these and many other issues of national importance.

Mr. President, a lot has been said about the uniqueness of this body. Indeed, our Senate is unique, and we all, as individuals and collectively as a body, have a role to play in ensuring its cherished nature remains intact. Indeed, as demonstrated by tonight’s agreement, and by the ultimate implementation of that agreement, we have done just that.

It has withstood mighty tests that have torn other governments apart. Its genius is in its quiet voice, not in any mighty thunder. The harmony of equality brings all to its workings with an equal stake at determining its future. In all that the Senate has done in the last 2 years, I, as leader, have attempted to discharge my task to help steer this institution consistent with my responsibilities, not just as majority leader and not just as Republican leader, but also as a Senator from Tennessee.

In closing tonight, with this agreement, the Senate begins the hard work of steering back to its better days, leaving behind some of its worst. While I would have preferred and liked my tenure here, LINDSEY GRAHAM, MARK PRYOR, SEN. SALAZAR, in coming up with this unique instrument that is only possible in the Senate.

Now, Mr. President, I say that this is not a victory for the Senate, though it is. I say this is a victory for the American people. It is a victory for the American people because the Senate has preserved the Constitution of the United States. No longer will we have to give the speeches here about breaking the rules to change the rules. We are moving forward in a new day, a new day where the two leaders can work on legislation that is important to this country.

Just as a side note, I can throw away this rumpled piece of paper I have carried around for more than a month that has the names MCCAIN, CHAFEE, SNOWE, WARNER, COLLINS, HAGEL, SPECER, MUKRISKO, and SUNUNU. It is gone. I do not need that any more because of the bravery of these Senators. I am grateful to my colleagues, as I have said, who brokered this deal. And it was not an easy one.

Now we can move beyond this time-consuming process that has deteriorated the comity of this great institution called the Senate. I am hopeful we can quickly turn to work on the people’s business. We need to ensure that our troops have the resources they need to fight in Iraq and around the world and that Americans are free from terrorism. We need to protect retirees’ pensions and long-term security. We need to address rising gasoline prices and energy independence, and we need to restore fiscal responsibility and rebuild our economy so it lifts all American workers. That is our reform agenda. Together we can get the job done.

It is off the table. People of good will recognize what is best for the institution. There are no individual winners in this. Individual winners? No. A little bit of working together, can do good things for this country. The country needs a Senate that works together.

Again, Mr. President, the only person I see here who I can personally thank is the distinguished Senator from Virginia. I say, through the Chair, to you and the other 13 Senators, thank you very much.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, before the leaves that floor, I want to extend my congratulations to the majority leader for moving us to this point. Obviously, human nature, being what it is, had we not had a deadline, had the Priscilla Owen nomination not been brought up, had the debate not begun, we would not be where we are today. Senator FRIST, in a tireless and persistent manner, has been working on this issue since shortly after the election last year, talking to Senator REID.

I also want to compliment the Democratic leader. I suspect there is no issue upon which Senator FRIST and Senator REID have had discussions more frequently than this one, going back for the last 2 years. I think there was bipartisan unhappiness in the Senate with the degree to which the Senate had deteriorated in the last Congress—this sort of random, mindless killing of nominees, 10 of them.

I think what has happened tonight is a result not only of the steadfastness of our majority leader, BILL FRIST, but also this coming together of the group
of 14, led in large measure on our side by Senator McCain and Senator Warner from Virginia, one of the real true supporters of this institution. They have allowed us to sort of step back from the brink. As I read this memorandum of understanding, signed by the senators and some of the distinguished senators, all options are still on the table with regard to both filibusters and constitutional options. But what I also hear from these distinguished colleagues is that they do not expect this to happen.

We have marched back from the brink, hopefully taken the first step, beginning tomorrow with cloture on Justice Priscilla Owen, to begin to deal with judicial nominations the way we always have prior to the last Congress.

Sure, there were occasional cloture votes, but they were always invoked. They were always for the purpose of getting the nominee an up-or-down vote. I want to thank Senator Warner and his colleagues for making it possible for us to get back to the way we operated quite comfortably for 214 years. So even though this is not an agreement that I would have made or that the majority leader would have made—because he and I both believe that all nominees who come to the floor are entitled to an up-or-down vote—it is certainly a good beginning. And three very, very distinguished nominees, whose nominations have been languishing for a number of years, are going to get an up-or-down vote. I think that is something we can all celebrate on a bipartisan basis.

So I do indeed think this has been a good night for the Senate. And I am optimistic that for the balance of this Congress, we will operate the way we did for 214 years prior to the last Congress.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. DURBIN. I thank the Chair.

Winston Churchill once said there is nothing more exhilarating than being shot at and missed. This evening I think Members of the Senate feel as I do.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I inquire what the regular order might be. I was scheduled to speak at 8:15. I am not entirely sure on the regular order.

The PRESIDING OFFICER. The majority controls the time until 9 o’clock.

Mr. ALLARD. Mr. President, my time right now as set aside for the majority is now being taken up by this discussion. I would like to have some time reserved for myself in the 30 minutes. Right now we have 6 or 7 or 8 speakers lined up, and so I want to have an opportunity to make my point known at some point in time. I think we need to establish regular order, and if both parties have agreed that it goes back over to the other side at 9 o’clock, I would like to have that extended out so that when we reach 9 o’clock then I can speak from 9 to 9:30.

Mr. DURBIN. Mr. President, I make the unanimous consent request that as soon as I finish speaking, and the other Senators for a brief recognition, the Senator from Colorado be recognized for 30 minutes.

Mr. HARKIN. Mr. President, reserving the right to object, do I understand the order is that when 9 o’clock comes what is in order is before the Senate right now?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. I did not hear the unanimous consent request of my friend from Illinois.

Mr. DURBIN. I say through the Chair to my friend from Iowa, since there has been the interruption of the good news of this agreement, it was taken from the time of the Senator from Colorado, the majority leader trying to make sure his time is protected and that we can move all times to the point where the Senator from Colorado has his 30 minutes as soon as a few of us have spoken for just a few minutes and then we will go on.

Mr. HARKIN. I ask unanimous consent at the conclusion of the 30 minutes for the Senator from Colorado, the Senator from Iowa be recognized for 15 minutes.

Mr. WARNER. Mr. President, reserving the right to object—I shall not object—I hope I could state a few words following the distinguished Senator from Illinois. I was scheduled to speak at 8 o’clock. My time I think has been put to good use, and I would be very pleased if I could make my remarks. So if I could follow the Senator from Illinois for not to exceed 4 minutes.

Mr. SCHUMER. Mr. President, I just want to get the regular order. I was scheduled to speak at 9 o’clock on our side. Is that time preserved under the order?

The PRESIDING OFFICER. The unanimous consent request that the Senator from Colorado have 30 minutes is also at 9 o’clock; is that correct?

Mr. SCHUMER. All right, then, Mr. President, I ask unanimous consent that immediately after the Senator from Colorado, I be given the 15 minutes I was going to be given at 9 o’clock.

The PRESIDING OFFICER. Will the Senator from Illinois modify his request?

Mr. DURBIN. Let me try to modify this appropriately. I ask unanimous consent that I speak for 5 minutes, that I be followed by Senator Warner who wishes to speak for 5 minutes, Senator Schumer for 5 minutes, then Senator Allard for 30 minutes, and Senator Harkin following him for 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. And after Senator Harkin, Senator Boxer for 15 minutes.

Mr. KYL. Mr. President, reserving the right to object, since I was to speak at 9:30, I want to intervene. I will withhold depending upon what my colleagues say in the spirit of the latest agreement to see whether it is necessary to comment, and if not then I will reserve my right to object to the request that has been made.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I thank my colleagues. It is great to have these bipartisan agreements on the floor of the Senate. Maybe a new spirit is dawning. I am going to take a very few moments. As I said at the outset, Winston Churchill said there is nothing more exhilarating than being shot at and missed. Many of us in the Senate feel that this agreement tonight means some of the most cherished traditions of the Senate will be preserved, will not be attacked, and will not be destroyed. I think it is a time for celebration on both sides of the aisle.

I salute one of my colleagues who is on the Senate floor this evening, Senator Warner of Virginia. I was asked by my friends back in Illinois not long ago by Senator Warner and the Republican Senators you really respect, and I said John Warner is certainly one of those Senators. And I mean it sincerely. He has played a central role with Senator McCain, Senator Byrd, Senator Nelson, Senator Pryor, and so many others to bring us to this point.

What I think is important is this: What we have seen as the emergence of resolving this issue is the emergence of people from the center who are dedicated to this institution and to our role in our government. I hope that continues over to other issues, and I hope the White House, as well as the leaders of both political parties, will try to work in that same spirit, the spirit of moving together in moderation. I might say that the fact that the President has had 95 percent of his nominees to the bench approved by the Senate is an indication that if he will pick men and women more toward the center, even a little right of center, which we expect, that the President is not going to run into the resistance he did with a handful of nominees that we on the Democratic side thought went too far.

I would like to say a word about Senator Harry Reid, who was in the Chamber just a moment ago. He spoke about sleepless nights. He and I talked about that for weeks. No one has spent more time worrying over this situation. He understood, as we all did, that this was not just another political issue, not just another political vote, but had Vice President Cheney come to that chair tomorrow and ruled as we heard he would under the nuclear option, the Senate would have been changed forever. This institution has been preserved. The nuclear option is off the table. We have been admonished, and I think appropriately so, not
to misuse the filibuster, certainly when it comes to judicial nominees. That is good advice on both sides of the aisle under Democratic and Republican Presidents. I thank my colleagues, too, for bringing up some of the more contentious issues of this debate.

Senator REID went to Senator FRIST weeks ago and said if this is about one thing, it is about one thing: the filibuster. If it is about two judges, let us get that resolved. The Senate, its traditions and the constitutional issues at stake, are more important than any single judicial nominee. Unfortunately, that negotiation between Senator REID and Senator FRIST did not lead to the culmination that we had hoped it would. But thanks to the leadership of colleagues on both sides of the aisle in good faith and good spirit on a bipartisan basis we have now moved ourselves beyond this crisis. Now the challenge is whether we can continue in this spirit: Will we tomorrow come together and start working on issues such as restrain- ment security, health care in America, the protection of our Nation, the support of our men and women in uniform, doing something to help with education? It is an important agenda that calls for the best on both sides of the aisle to work together.

Again, let me thank Senator WARNER for his leadership. I know he has been patient. A couple weeks ago, the Senator came over to me in the corner of the Chamber and said: We ought to work together to get this resolved.

The Senator never quit. I admire him for that. I admire Senators on both sides of the aisle who brought us to this happy conclusion.

And at that point, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank my distinguished colleague from Illinois.

Mr. President, when we opened our brief press conference upstairs, Senator MCCAIN and Senator BEN NELSON spoke for their caucus group. It was made clear our everlasting gratitude to the tireless efforts by Senator FRIST and Senator REID. The framework that we have created can be no stronger than the foundation on which it rests. And that foundation was laid by our two respective leaders, and, indeed, the whips, Senator MCCONNELL and the Senator from Illinois. So we are not around this evening to try to take credit for anything. As a matter of fact, this was the most sobering of speeches, and the manner in which it was conducted over a number of days—total humility among our group.

We are proud of the leadership that Senator MCCAIN gave, Senator BEN NELSON, Senator BYRNET, and others. But each Senator of the 14 was 1, but 1 among equals, working toward a common goal. And no one articulated that goal time and time again in every meeting more than Senator ROBERT BYRD of West Virginia, who said it is the Nation, it is the institution of the Senate, and the third priority is our own career. So I thank him for that.

I am proud to have been a part of this. I do hope that our wonderful Senate can now resume its long and distin- guished service to our Nation over these 214 or 216 years, and I am very privileged to have been a small part of it at this time.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank the Chair. I thank all my col- leagues. This will go down, hopefully, as a fine night in the Senate, in the U.S. Government. Armageddon has been avoided, and thank God for that. We in the Senate stepped right up to the precipice, but we did not fall in. This Republic works in amazing ways. And just as we were about to fall into an abyss of partisanship, of a destruc- tion of the checks and balances that are the hallmark of this institution and this government, 12 Senators, 8 from many Democrats from red States, some Republicans, came to- gether and created an agreement that I think serves this body well.

Does it have everything that we would have wanted on this side? No. But it takes the nuclear option off the table. It means it filibusters may continue to be used, albeit in a restrained way—although many would argue 10 out of 218 was restrained in itself. It also asks the President to consult and not, at some instant in time, be a key element of this agreement. The President is not that he came so close to this Armageddon is, because, in my judgment, we didn't have the typical consultation that previous Presidents—Clinton, Bush, Reagan—had with the Senate before nominating judges.

The agreement widely states that it is the hope of the Senate—at least of the 12 signatories, but I am sure the other 88 Senators would join—that the President will begin to consult. That our nominees will be so far from his political philosophy. He is the President and he gets to choose them. But it will mean that the kinds of partis- division that we have seen here is gone.

Mr. President, what I most feared about the nuclear option was the destruc- tion of the checks and balances that are the hallmark of this institu- tion. Those checks and balances have been preserved tonight. But make no mistake: under the agreement all make efforts, we could get right back to this point soon enough. It could be on the issue of judges or on the issue of some- thing else. The poison of too much par- tisanship is still here, and it is hoped that this agreement will set the stage for a bet- ter Senate, a better Congress, and a better Republic in the future.

Mr. President, this could become a historic night if the agreement that has been created keeps. We must pre- serve the checks and balances in the Senate. We must preserve the rights of the minority in the Senate. We must understand that a vote of 51 percent on the most major of decisions is not the right vote that is always called for. That has been the tradition in the Sen- ate.

The reason we say that our rules take two-thirds to change is exactly to make it hard to change the rules and force the proposed changer to seek a bi- partisan coalition. That bipartisanship is what differentiates us from the other body. Those checks and balances diffuse us from most other govern- ments. We must fight to keep them and tonight we have made a giant step in that direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I thank the Senator from New York for his kind comments on the judicial nomination process. My thanks extend to all my colleagues tonight for their com- ments on the judicial nomination proc- ess and compromise negotiations.

I rise to congratulate the 14 Senators who have indicated through a Memo- randum of Understanding that they will not support a filibuster on 3 of President Bush's judicial nominees. This is a good first step toward a bipar- tisan resolution.

My statement this evening is based on remarks that I prepared prior to the announcement of the judicial nomina- tion compromise; however, the basic intent of my remarks has not changed even though the filibuster has been broken on three of the President's nominees. Tonight, I will address the qualifications of Priscilla Owen, and how important it is that we allow a yes or no vote on judicial nominees. All I ask for is an opportunity to have a yes or no vote on those judges that are pending before the Senate.

I am concerned about the next step in the judicial nomination debate— where are we going to get from here when it comes to the filibuster? I join my colleagues on both sides of the aisle who wish to move forward and forget about finger pointing and blame—who voted for who, who voted for a fili- buster and how many times did they vote against cloture. I just hope we do indeed move forward. I hope we will look at each judge that is before the Senate and confirm them up or down based on their qualifica- tions. That is what our forefathers had in mind when the advise and consent...

I join my colleagues in support of the nomination of Priscilla Owen, the Texas Supreme Court justice who was first nominated to the Fifth Circuit Court of Appeals in May 2001 by Presi- dent Bush. I urge my colleagues to sup- port her confirmation and allow an up- or-down vote on her nomination. I hope that fairness prevails and that we do indeed move forward and confirm her nomination, and it looks like that is indeed the way the events have unfolded this evening.
I have had the opportunity to meet with Priscilla Owen personally. I don’t know how many of my colleagues who oppose or who continue to oppose her have accepted her offer to visit with them, but I hope they will have the courtesies in person that I did. I decided to refuse to offer her a fair up-or-down vote. If they do, they will quickly learn she is a person of integrity, humility, and possesses a keen understanding of the law.

On another note, she is a wonderful human being. I was particularly impressed when she told me that growing up she hoped to be a veterinarian. As a veterinarian myself, you can understand why I was impressed. She spoke of growing up and participating in a family cattle ranching enterprise, helping her parents and grandparents during calving season, nursing and branding.

There is something special about a person who has been kicked by a cow and swatted across the face with a dirty cow tail. It makes a person more real, more understanding of life and hard work. This is exactly the type of judge I would like on our bench, one who understands real life, honest-living and hard-working people.

Instead of defaming her, I wish my colleagues would get to know her so they might recognize the legal skill and value she would bring to the United States as a member of the Fifth Circuit Court of Appeals. Priscilla Owen will uphold the law, not the law. Some find this to be a problem. I find it to be a blessing.

Priscilla Owen has served in the law with distinction. A justice of the Texas Supreme Court since 1995, she received overwhelming approval from the people of Texas, 84 percent of whom voted to retain her service on the bench.

Unlike many Members of the Senate, including myself, when it came time for the voters to decide whether or not she should remain on the bench, Ms. Owen received the endorsement of every member of the Senate of Texas. I ask, does that sound like someone who is too extreme?

Priscilla Owen’s life has not been limited to the law. She is a decent human being and dedicated community servant. She has worked to educate parents about the effect divorce has on children and worked to lessen the adversarial nature of legal proceedings when a marriage is dissolved. She works with the associations dedicated to service animals for those with disabilities. She teaches Sunday school and is committed to the poor and underprivileged.

It is clear that she is qualified to serve on the Fifth Circuit Court. The American Bar Association unanimously rated Justice Owen “well qualified,” its highest possible rating. She has the support of former Democrat justices on the Texas Supreme Court and 15 past presidents of the Texas State Bar.

To say that she is not qualified is utterly ridiculous. Because her credentials are so outstanding, throughout this debate, the other side has relied on hyperbole and rhetoric, accusing her of being “extreme” in order to smear her nomination. So the question her nomination presents us, then, is whether she is extreme, qualified, or both. One might say, “what is it about the Constitution that is it provides us with a mechanism to make this type of ‘advice and consent’ determination on whether she is extreme or qualified—through a simple up-or-down vote?

An up-or-down vote is a simple matter of fairness. Every judicial nominee that makes it out of the Judiciary Committee should receive an up or down vote. The filibuster is not in the Constitution. It is merely a parliamentary delay tactic that was relatively unused until modern times. In 214 years, never has a nominee with the majority of support of the United States Senate been denied a vote.

Throughout the history of the United States, a nominee who clearly held the majority support of the Senate had never been defeated by the use of the filibuster—until now. During the last two Administrations, President Bush’s nominees tried to establish a precedent by using the filibuster to block a nomination. Having witnessed what was taking place, I appealed to my colleagues to restore the fairness that this body and the American people deserve. That is why I am so excited about moving forward with 3 of the nominations, which includes Priscilla Owen, so we can have an up-or-down vote.

Throughout this debate, I have consistently stated we must reach a compromise that allows an up-or-down vote on all nominees, while affording everybody an opportunity to be heard. This is not a partisan issue or flippant suggestion; it is a matter of fairness. If a nominee reaches the floor, then they should receive a vote—up or down. I don’t believe there is anything wrong with providing a nominee an up-or-down vote. Some in this body have used the filibuster before to kill a judicial nominee. But such actions are simply misguided. Every nominee with a majority of support has received an up-or-down vote—every nominee for over 200 years.

I do not take the confirmation of judicial nominations lightly, nor do my colleagues. But we must not twist the confirmation process into a partisan platform.

Our fundamental duty to confirm the President’s nominees is not an easy task. It carries with it the weight and responsibility of generations—a lifetime appointment to a position that requires a deep and mature understanding of the law.

We were elected to the Senate by people who believed we would accomplish our fundamental duties—as representatives of the people to say yes or no to the President’s nominees.

I believe Members have a right to express their opinions. I also believe that Members have a right to a vote and that it is wrong to deny others of their opportunity to vote on judicial nominations.

The debate is not about numbers. It is not about percentages—how many judges Democrats block. It is about how many judges Democrats have confirmed. To frame this debate as a numbers fight is not fair to the American people. We were not sent to Congress to focus on a numerical count, but to work to carry out our constitutional obligations, in this instance the advice and consent clause.

Some Senators have come to the floor to argue that the advice and consent clause doesn’t mean that the actually vote on nominees. They argue that a vote is only needed to confirm the nominee, but that other tactics can be used to disapprove the nominee. Unfortunately, these other tactics that have been used to kill a nomination have resulted in the obstruction of our constitutional duties.

To help address this point, I will turn to a recent article published in the National Review, which discusses the origins of the advice and consent clause through the eyes of our country’s Founders. The article notes the appointment clause is listed as an explicit power vested in the executive.

The advice and consent obligation follows this clause but it is in the article addressing executive powers. It is not listed in the article addressing legislative powers. The author believes that this is instructive because it helps us understand that the Founders intended the President to play the main role in the nomination process, not the legislature. Had the Founders intended the legislature to be the fulcrum, they would have listed the advice and consent clause as a fundamental duty in the article addressing legislative powers.

I ask unanimous consent to have that article printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From National Review Online, May 17, 2005]

BREAKING THE RULES: THE FILOMBUSTERS INTENDED NO MORE THAN A SENATE MAJORITY TO APPROVE JUDGES

(By Clarke D. Forsythe)

The sharpening debate in the U.S. Senate over whether Democrats can block President Bush’s judicial nominations by filibuster raises the basic question of the scope of the Senate’s constitutional role to give “Advice and Consent.” What does it mean for the Senate to give “Advice and Consent” for federal judges? Many people question whether changing the rules to allow only a majority vote for confirmations is proper, or even constitutional. According to, the text of the Constitution, the record of the Constitutional Convention of 1787, and Supreme Court decisions, the Advisory and Consent clause does not grant the Senate power to block a nomination by a majority vote. The Senate’s “Advice and Consent” for judicial appointments.

The key provision is Article II, Section 2, clause 2: “The Advice and Consent of the Senate shall have Power, by and with the Advice and Consent of the Senate, to make
Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers, Judges of the Supreme Court, and all other Officers of the United States ....

There are three striking aspects of the Appointment Clause of which are intentional and not accidental.

First, it is instructive if not definitive that the Article III Clause is contained as an explicit power in Article II, involving executive powers, not in Article I, involving legislative powers.

Second, a simple majority is required. The clause on the treaty power, after mentioning “Advice and Consent,” requires concurrence by “two thirds of the Senators present” in the appointment of ambassadors and others, including Supreme Court justices—by contrast—does not.

This is reinforced by the contrast found in several other provisions in the Constitution where a “supermajority” vote is required. In Article I, section 3, two-thirds (of members present) are required for Senate conviction for impeachment. In Article I, section 2, two-thirds are required to expel a member of either House. Article I, section 7 requires two-thirds for overriding a presidential veto.

The general rule is that majorities govern in a legislative body, unless another rule is expressly provided. Article I, section 5, for example, provides that “a Majority of each House shall constitute a Quorum to do Business.”

More than a century ago, the Supreme Court stated in United States v. Ballin, a unanimous decision, that “the general rule of all parliamentary bodies is that, when a quorum is present, the act of a majority of the quorum is the act of the body. This has been the rule for all time, except so far as in any given case the terms of the organic act under which the body is assembled have prescribed specific limitations .... No such limitation is found in the federal constitution, and therefore the general law of such bodies obtains.”

Third, the particular process in the Appointments Clause—of presidential nomination and Senate “consent” by a majority—was carefully considered by the Constitutional Convention. A number of alternative processes for appointments were thoroughly considered—and rejected—by the Constitutional Convention. And this consideration took place over several months.

The Constitutional Convention considered at least three alternative options to the final Appointments Clause: (1) placing the power in the president alone, (2) in the legislature alone, (3) in the legislature with the president’s advice and consent.

On June 13, 1787, it was originally proposed that judges be “appointed by the national Legislature,” and that was rejected. Madison objected and made the alternative motion that appointments be made by the Senate, and that was at first approved. Madison specifically proposed that a “supermajority” be required for judicial appointments, but this was rejected.

On July 18, Nathaniel Ghorum made the alternative motion “that the Judges be appointed by the President with the advice & consent of the 2d branch,” following on the practice in Massachusetts at that time.

Finally, on Friday, September 7, 1787, the Convention approved the final Appointments clause, making the President primary and the Senate alone secondary with the role of “advice and consent.”

Obviously, this question is something that the Framers carefully considered. The Constitution and Supreme Court decisions are quite clear that only a majority is necessary for confirmation. Neither the filibuster, nor a supermajority vote, is part of the Advice and Consent role in the U.S. Constitution. Until the past four years, the Senate never did otherwise. Changing the Senate rules to eliminate the filibuster and only require a majority vote is not only constitutional but it fits with more than 200 years of American tradition.

Mr. ALLARD. Mr. President, had the Founders intended a 60-vote supermajority, they would have included the requirement in the Constitution the way they did on the treaty power clause. The clause on the treaty power, that mentions “advice and consent,” requires concurrence by two-thirds of the Senators present. The clause on the appointment of ambassadors and others, including Supreme Court Justices, by contrast, does not.

The Framers pointed out several other provisions in the Constitution where a supermajority vote is required. In Article I, section 3, two-thirds of Members present are required for Senate conviction for impeachment. In Article I, section 5, two-thirds are required to expel a member of either House. Article I, section 7 requires two-thirds for overriding a Presidential veto.

The fact that the Constitution explicitly requires two-thirds in some contexts indicates that the Senate’s consent in Article II, section 2 is by majority vote when no supermajority vote is required.

The general rule is that majorities govern in a legislative body, unless another rule is expressly provided. Article I, section 5, for example, provides that “a Majority of each House shall constitute a Quorum to do Business.”

More than a century ago, the Supreme Court stated in United States v. Ballin, a unanimous decision, that “the general rule of all parliamentary bodies is that, when a quorum is present, the act of a majority of the quorum is the act of the body. This has been the rule for all time, except so far as in any given case the terms of the organic act under which the body is assembled have prescribed specific limitations .... No such limitation is found in the federal constitution, and therefore the general law of such bodies obtains.”

In the author’s own words: “… the particular process in the Appointments Clause—of presidential nomination and Senate ‘consent’ by a majority”—was carefully considered by the Constitutional Convention. A number of alternative processes for appointments were thoroughly considered—and rejected—by the Constitutional Convention. And this consideration took place over several months.

The Constitutional Convention considered at least three alternative options to the final appointments clause: (1) placing the power in the President alone, (2) in the legislature alone, (3) in the legislature with the President’s advice and consent.

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Finally, on Friday, September 7, 1787, the Convention approved the final appointments clause, making the President primary and the Senate alone secondary with the role of advise and consent.

I am no lawyer, but to me if a document consistently states when a supermajority vote is required and silent when it is not required, that they meant to write it that way and it was not a mere oversight no supermajority was required for the approval of judicial nominees.

Clearly, a supermajority was never intended, but what was intended was an up-or-down vote, a fair nonpartisan up-or-down vote.

If a Member of the Senate disapproves of a judge, then let them vote against the nominee. I encourage them to express their dissatisfaction and vote no on the nominee. But do not deprive those of us that support a nominee of our right to a vote. Do not deny an up-or-down vote entirely. Let’s decide whether the Members of this body approve or disapprove of the nominees, and let’s vote. Let’s vote to show whether this body believes the nominees are unfit for service or out of the mainstream. I believe they have majority support—majority support from the elected representatives of the people. But let’s vote and find out.

It is our vote—the right of each Member to collectively participate in a show of advise and consent to the President—that exercises the remote choice of the people who sent us to Congress.

Our three-branch system of government cannot function without an equally strong judiciary. It is through the courts that justice is served, rights protected, and that lawbreakers are sentenced for their crimes.

Unfortunately, one out of four of President Bush’s circuit nominees have been subjected to the filibuster, the worst confirmation of appellate court judges since the Roosevelt administration. The minority cannot willingly refuse to provide an up-or-down vote on judicial nominees without acknowledging that irreparable harm may be done to an equal branch of government.

The decision to vote up or down on a nominee or deny that vote entirely pits the Constitution against parliamentary procedure. That is the Constitution versus the filibuster. I urge my colleagues to put their faith in the
founding document and not in a filibuster. To do anything else dishonors the Constitution and relegates it to a mere rule of procedure.

I am pleased that we have reached a common ground on three of the judicial nominees. I am pleased that we have recognized our duties as Members of this body to uphold the Constitution. But I would ask my colleagues for fairness as we move forward for the rest of the session, for the rest of this Congress, to put partisan politics aside and to fulfill our duties and consent obligations on all nominations. As we move through the rest of the Congress, let’s vote up or down and end this debate about filibusters with honor.

Mr. President, I am excited that we can now move forward.

I yield to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. ALLARD. Mr. President, it seems as though we need to do closing script, and if the Senator from Iowa will let me to tone, I will be glad to do that formality.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

MORNING BUSINESS

Mr. ALLARD. Mr. President, I ask unanimous consent that the attached Mar 30, 2014 Jkt 081600 PO 00000 Frm 00061 Fmt 0624 Sfmt 0634 E:\2005SENATE\S23MY5.REC S23MY5mmaher on DSKCGSP4G1 with SOCIALSECURITY
KFOR augments security in particularly sensitive areas or in response to particular threats as needed.

NATO HEADQUARTERS—SARAJEVO IN BOSNIA AND HERZEGOVINA

Pursuant to June 2004 decision made by NATO Heads of State and Government, and in accordance with U.N. Security Council Resolution 1575 of November 22, 2004, NATO concluded its Stabilization Force (SFOR) operations in Bosnia and Herzegovina and established NATO Headquarters—Sarajevo to which approximately 235 U.S. personnel are assigned.

So, as we observe this holiday we call Memorial Day, let us remember the centuries of sacrifice by the many men and women that this day represents. And let’s make sure that all who served with honor are returned.

ADDITIONAL STATEMENTS

THE PASSING OF GEORGE POOLE

• Mr. CRAIG. Mr. President, I have sought recognition to comment on the passing of a dedicated, 28-year employee of the Department of Veterans Affairs Insurance Center, Mr. George Poole. Until his untimely death, Mr. Poole served within the VA Insurance Service, widely regarded as a model of efficiency and service excellence within the Federal Government.

We in the Congress spent a considerable amount of time on the supplemental appropriations bill debating enhancements to insurance benefits for our servicemembers fighting abroad. We were successful in not only increasing the amount of life insurance benefits available for servicemembers, but also creating a new traumatic injury insurance benefit for those severely disabled. Without the assistance of public servants like George, who provide the Veterans’ Affairs Committee, and the Congress, with invaluable technical assistance on all legislation affecting insurance benefits, our job would be very difficult.

George began his life-long dedication to public service while serving honorably in the U.S. Air Force from 1964 through 1968. Subsequent to his service, he then received a bachelor’s degree and a law degree, taking full advantage of the Department of Veterans Affairs-administered GI bill. There is little doubt that his time in the military service of his country, and his subsequent studies under the GI bill, inspired him to pursue a career dedicated to helping his fellow veterans. This dedication to fellow veterans truly made George Poole a distinguished 28-year career with the U.S. Department of Veterans Affairs where he served his Nation from 1977 until his death.

His long career with the Department of Veterans Affairs was entirely within the Insurance Service where he served in an impressive litany of capacities. Starting as a claims examiner in the Insurance Service, he worked his way up through numerous management level positions including section chief, division chief and finally culminating his distinguished career as chief, program administration, a senior management position. In this, the final step in his career ladder, he was responsible for a variety of duties, not the least of which was composing legislative initiatives concerning servicemembers’ and veterans’ group life insurance programs. This insurance coverage is intended for members of this Nation’s Armed Forces military components, as well as veterans recently released from Active service, who are in, or recently were in, harm’s way defending the United States. The importance of assuring that all members of the military, veterans and their families are properly provided for in their time of need goes without question. Therefore, George’s work will undoubtedly have a lasting effect on the families of thousands.

I would like to extend my sincere appreciation on behalf of a grateful Nation to the Poole family for George’s dedicated service to this Nation’s veterans. I also extend my heartfelt sympathies to the Poole family during their time of sorrow.

TRIBUTE TO GLENN D. CUNNINGHAM

• Mr. LAUTENBERG. Mr. President, today I wish to pay tribute to one of New Jersey’s most acclaimed advocates of social justice, mayor and State senator Glenn D. Cunningham, on the 1-year anniversary of his passing.

Although Glenn’s life was tragically cut short by a heart attack, his extraordinary legacy of public service lives on. His remarkable accomplishments are surpassed only by the love he felt for his family, friends, and the people in the community he served.

A lifelong resident of Jersey City, Glenn demonstrated his sense of duty early in life, enlisting in the United States Marine Corps after he completed high school. He served his country with distinction for four years, and then continued his commitment to public safety by joining the Jersey City Police Department in 1967.

Aided by a strong work ethic and intelligence, Glenn rose through the ranks of the department over the next 25 years, attaining the position of Captain. Realizing the value of education and the power of ideas, during this same period he attended Jersey City State College and earned a bachelor’s degree, graduating cum laude in 1991.

Glenn had a passion for helping people and the ability to take on many diverse responsibilities and perform many tasks at once. He expanded his public service career in 1975, serving as a Hudson County Freeholder until 1978. He was subsequently elected to the Jersey City Council, where he served two consecutive terms, including one term as city council president.

Upon his retirement from the police department in 1991, Glenn was appointed the director of the Hudson County Department of Public Safety.

In 1996, President Clinton appointed Glenn as United States Marshall for
the State of New Jersey. This appointment broke a barrier for African American leaders in our State, and I was proud to support Glenn for the position, knowing that he would do a great job.

Never one to be complacent or satisfied with the status quo, Glenn set his sights on another historic milestone, and in 2001 he became the first African-American mayor of Jersey City. Adding to his already impressive list of ‘firsts,’ Glenn’s 2004 election to the New Jersey State senate marked the first time a mayor of Jersey City has simultaneously held State office.

Glenn’s illustrious career in public service was marked first and foremost by his unwavering commitment to the citizens of Jersey City. Like Frederick Douglass, Glenn battled to improve the lives of the people he represented even if his efforts hurt him politically.

Glenn’s constituents could always approach him with their problems or concerns, and he made time to listen to them. His genuine care for others inspired hope, and his courage, dignity, and fierce determination helped reinvigorate a once-distressed city.

The effects of his reform-minded, progressive agenda continue to resonate today. As a friend, a dedicated public servant, and a groundbreaking pioneer, Glenn is sorely missed by many. His memory, however, lives on, and will continue to inspire others to work for the same positive social change that was so close to his heart.

HONORING THE VERMONT ARTS COUNCIL

• Mr. JEFFORDS, Mr. President, I rise today to recognize the 40th anniversary of the establishment of the Vermont Arts Council and its dedicated support for the arts in Vermont.

The Vermont Arts Council, the only nonprofit arts agency in the country, was founded four decades ago “on a simple and powerful premise: that the arts enrich lives and form a vital part of Vermont community life.”

Throughout the years, the Vermont Arts Council has served as Vermont’s foremost arts advocate. Its resources are dedicated to the professional development of local artists, and it is a primary source of information about the arts, their impact on Vermont and across the United States.

Vermont is rich in culture and creativity, and the Vermont Arts Council has played such a vital role in contributing to this environment where artists and arts organizations thrive. The arts and humanities are a powerful force in bringing us together and their presence is to be nurtured and integrated into our communities at every opportunity.

The Vermont Arts Council became a reality 40 years ago when its founders realized the importance of the arts in education and in our daily lives. Pauline Billings, who served as one of the original trustees of the council, has worked tirelessly in support of the arts in Vermont. It is so fitting that she is being honored with the council’s Lifetime Achievement Award for the Arts. I cannot think of a more deserving recipient, and I welcome this opportunity to acknowledge Polly for her invaluable contributions.

It is with great pleasure that I recognize the Vermont Arts Council as it marks its 40th anniversary and pay tribute to the council’s work in helping the arts remain a vibrant force in Vermont. Has it been another four decades of great achievement?

OPENING OF THE NORTH DAKOTA COWBOY HALL OF FAME

• Mr. DORGAN, Mr. President, because truth in labeling is important these days, let me just simply label this as some old-fashioned bragging about my brother.

In last Sunday’s Fargo Forum, a column by Jack Zaleski described the work of Darrell Dorgan in an extraordinary way and I wanted to share it far and wide.

Darrell has been a journalist, filmmaker, a writer, a historian and now a builder. It is already a remarkable career and much is yet to come.

But today I am reprinting for my colleagues the newspaper column that describes his latest project: the North Dakota Cowboy Hall of Fame. It will be dedicated to the history of ranch life and cowboy life in the Northern Great Plains. His work is an inspiration to those who have a passion about honoring our history.

From the Indians, to the settlers and ranchers, to the rodeo cowboys and the bucking horses, the stories will be brought to life in the Cowboy Hall of Fame in Medora, North Dakota beginning next month.

It is a tribute to the dreams and hard work of Darrell Dorgan and many others who share in this accomplishment. Congratulations to all.

I ask to have the attached article entitled “Long Ride to Cowboy Hall of Fame” from the May 22nd edition of the Fargo Forum printed in the Record.

The article follows.

[From the Forum, May 22, 2005]

LONG RIDE TO COWBOY HALL OF FAME

(By Jack Zaleski)

I’ve known Darrell Dorgan for 30 years. He’s a member of a shrinking cadre of broadcast journalists during which he established himself as one of the most knowledgeable, dogged reporters in the Bismarck press corps. His work for Prairie Public Broadcasting was some of the best ever done for public television. For his efforts he won nearly every award a broadcaster could win.

But history was calling—specifically the history, legend and lore of western North Dakota. A bona fide expert on the exploits and foibles of General George A. Custer, Dorgan eventually found a way to fold his love for this state’s history into his living.

His efforts have paid off. The hall of fame has a sneak preview scheduled May 28 during the Cowboy Poetry and Art Show. The center will open officially in mid-June. A dedication celebration, complete with induction of hall of fame candidates, will come in early November. The first members of the Hall of Fame are to be inducted at that event.

I know there were times when Dorgan was discouraged. But he knew North Dakotans would respond to the center where cowboy and ranch life could be enshrined. He understood how deep western roots are planted in the state’s history and history and how deep western roots are planted in the state’s history and heritage.

It took a point man to raise that much money. It takes perseverance.

It’s been a long ride on a sometimes skittish horse. But Dorgan will be the first to say he didn’t do it alone. And of course, a lot of people deserve a measure of credit for the success of the project. But without his vision and focus on the task, the hall would still be a wish. It takes a point man to raise that much money. It takes perseverance.

EXECUTIVE MESSAGES REFERRED

As in executive session the President of the United States submitted sundry nominations which were referred to the appropriate committees.

ADDRESS OF THE HOUSE

At 2:22 p.m., a message from the House of Representatives, delivered by one of itsPrinting secretaries, declared that the House has passed the following bill, in which it requests the concurrence of the Senate:
MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:


MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1098. A bill to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LOTT, from the Committee on Rules and Administration:


INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CORZINE (for himself and Mr. LAUTENBERGER):

S. 1096. A bill to amend the Wild and Scenic Rivers Act to designate portions of the Musconetcong River in the State of New Jersey as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 1097. A bill to amend title 4 of the United States Code to prohibit the double taxation of telecommuters and others who work from home; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mrs. MURRAY, Ms. MIKULSKI, Mrs. CLINTON, Mr. DOBAN, and Mr. DURBIN):

S. 1098. A bill to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program; read the first time.

By Mr. SHELBY:

S. 1099. A bill to repeal the current Internal Revenue Code and replace it with a flat tax, thereby guaranteeing economic growth and greater fairness for all Americans; to the Committee on Finance.

By Mr. BUNNING (for himself, Mr. CONRAD, Mr. HATCH, Mrs. BOXER, Mr. Alexander, and Mr. DURBIN):

S. 1100. A bill to amend the Internal Revenue Code of 1986 to provide capital gains treatment for certain self-created musical works; to the Committee on Finance.

By Mrs. MURRAY (for herself and Mr. DEWINE):

S. 1101. A bill to amend the Head Start Act to address the needs of victims of child abuse and neglect, children in foster care, children in kinship care, and homeless children; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER (for himself and Mr. BURNTS):

S. 1102. A bill to expand the aviation war risk insurance program for 3 years; to the Committee on Commerce, Science, and Transportation.

By Mr. RANIAN (for himself, Mr. GRASSLEY, Mr. WYDEN, Mr. Kyl, Mr. SCHUMER, Mr. CRAPO, Mr. PHYOR, Mr. JEFFORDS, and Mr. FRIST):

S. 1103. A bill to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mr. CHAFEE, Mr. NELSON of Florida, Ms. COLLINS, Mr. BINGAMAN, and Ms. CANTWELL):

S. 1104. A bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the Medicaid and State children's health insurance programs; to the Committee on Finance.

By Mr. DODD (for himself, Mr. COCHRAN, Mr. LEVIN, Mr. KENNEDY, and Mr. AKIN):


By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 1106. A bill to authorize the construction of the Arkansas Valley Conduit in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1107. A bill to reauthorize the Head Start Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBLIMATION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, referred (or acted upon), as indicated:

By Mr. HAGEL (for himself, Mr. BAUCUS, Mr. BINGAMAN, and Mr. ROCKEFELLER):

S. Con. Res. 36. A concurrent resolution honoring the life of Sister Dorothy Stang; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 87

At the request of Mr. LUGAR, the name of the Senator from Nevada (Mr. ENZI) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 87, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 117

At the request of Mrs. FEINSTEIN, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. CORZINE) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 117, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 267

At the request of Mr. CRAIG, the name of the Senator from North Dakota (Mr. DOBAN) was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 285

At the request of Mr. BOND, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 285, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 331

At the request of Mr. JOHNSON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 331, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 333, a bill to end the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 365

At the request of Mr. COLEMAN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 365, a bill to amend the 'Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes.

S. 401

At the request of Mr. HARKIN, the name of the Senator from New York...
(Mrs. CLINTON) was added as a cosponsor of S. 401, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. ISAJAKSON) was added as a cosponsor of S. 441, a bill to amend the Internal Revenue Code of 1986 to make permanent the classification of a motorsports enterprise as a "qualifying business." S. 515

At the request of Mr. BYRD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 515, a bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes.

At the request of Mr. HARKIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 567, a bill to provide immunity for non-profit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage, adoption, or failure to adopt rules of play for athletic competitions and practices.

At the request of Mr. PRYOR, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 582, a bill to provide immunity for non-profit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage, adoption, or failure to adopt rules of play for athletic competitions and practices.

At the request of Mr. CONRAD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 601, a bill to amend the Internal Revenue Code of 1986 to include combat pay in determining an allowable contribution to an individual retirement plan.

At the request of Mr. FEINGOLD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 611, a bill to amend the Internal Revenue Code of 1986 to provide for a minimum update for physician's services for 2006 and 2007.

At the request of Mr. KYL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 798, a bill to restore Second Amendment rights in the District of Columbia.

At the request of Mrs. HUTCHISON, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of 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.

At the request of Mr. BOXER, the name of the Senator from California (Ms. BOXER) was added as a cosponsor of S. 772, a bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

At the request of Mr. FEINGOLD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 798, a bill to amend title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes.

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 811, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln.

At the request of Mrs. CANTWELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 984, a bill to conduct a study evaluating whether there are correlations between the commission of methamphetamine crimes and identify theft crimes.

At the request of Mr. SMITH, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit.

At the request of Mr. THUNE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1065, a bill to amend title 10, United States Code, to extend child care eligibility for children of members of the Armed Forces who die in the line of duty.

At the request of Mr. BAUCUS, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1066, a bill to provide for higher education affordability, access, and opportunity.

At the request of Mr. HUTCHISON, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1082, a bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007.

At the request of Mr. BOXER, the name of the Senator from California (Ms. BOXER) was added as a cosponsor of S. 798, a bill to amend the Internal Revenue Code of 1986 to provide for a minimum update for physician's services for 2006 and 2007.

At the request of Mr. CONRAD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 601, a bill to amend the Internal Revenue Code of 1986 to include combat pay in determining an allowable contribution to an individual retirement plan.
At the request of Mr. KENNEDY, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Illinois (Mr. DURBIN) were added as co-sponsors of S. 1084, a bill to eliminate child poverty, and for other purposes.

At the request of Mr. HATCH, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Florida (Mr. MARTINEZ) and the Senator from Nevada (Mr. ENSEN) were added as co-sponsors of S. 1086, a bill to improve the nation's system to register and monitor individuals who commit crimes against children or sex offenses.

At the request of Mr. SALAZAR, the name of the Senator from Colorado (Mr. ALLARD) was added as a co-sponsor of S. 1092, a bill to establish a program under which the Secretary of the Interior offers for lease certain land for oil shale development, and for other purposes.

At the request of Mrs. FEINSTEIN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Nebraska (Mr. NELSON) were added as co-sponsors of S.J. Res. 18, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

At the request of Mr. NELSON of Florida, the name of the Senator from Iowa (Mr. HARKIN) was added as a co-sponsor 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 the budgetary estimates for such activities for fiscal year 2006, and for other purposes.

At the request of Mr. LANTOBBINS, I am introducing the amendment that would provide $15 million for fiscal years 2006-2010 to the Cooperative State Research Education and Extension Service, for the competitive grants program of the National Institute of Food and Agriculture, for the Small Business Research and Development Program for Fiscal Year 2006.


At the request of Congressmen ROBERT ANDREWS, MICHAEL FERGUSON, RODNEY FRELINGHUYSEN, ROBERT MENENDEZ, FRANK PALLONE, DONALD PAYNE and JAMES SAXTON.

This is important legislation to help preserve and protect one of the most valuable natural resources in the State of New Jersey. The Musconetcong River is a 43 mile river that runs westward from Lake Musconetcong to the Delaware River. It provides many ecological, recreational and scenic benefits to the northern portion of our State. It also provides a number of archeological sites and other historic areas, including one site in Warren County where scientists have discovered stone knives and other weapons dating back at least ten thousand years. Finally, it provides water that many residents in Hunterdon and Warren counties with drinking water.

Unfortunately, the beauty and value that the Musconetcong provides is threatened. The river faces pressures, for example, from the development that is occurring on or near its shores. This has caused water quality to deteriorate from increased levels of bacteria, siltation and nutrients. Further, many of the municipalities that lie along the river lack the financial resources to adequately protect the river for generations.

The Musconetcong Wild and Scenic Rivers Act would help state, county and local officials begin to address these concerns, working alongside environmental and public interest groups. By including this river in the Wild and Scenic River System, it would allow New Jersey to implement a management plan for the river that has the support of three counties and 13 municipalities. In addition it would make the river eligible for financial, planning, and technical assistance to help preserve and protect it. The goal is to encourage uses and development that is compatible with the river.

The Wild and Scenic River System already includes the Maurice and Great Egg Harbor Rivers in New Jersey as well as the lower and middle portions of the Delaware River.

I will work hard in the 109th Congress to see that the Musconetcong is added to this list. I hope my colleagues will support this legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1096
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 “Musconetcong Wild and Scenic Rivers Act.”

SEC. 2. FINDINGS. Congress finds that—

(1) the Secretary of the Interior, in cooperation and consultation with appropriate Federal, State, regional, and local agencies, is conducting a study of the eligibility and compatibility of the Musconetcong River in the State of New Jersey for inclusion in the Wild and Scenic Rivers System;

(2) the Musconetcong Wild and Scenic River Study Task Force, with assistance from the National Park Service, has prepared a river management plan for the study area entitled “Musconetcong River Management Plan” and dated April 2002 that establishes goals and actions to ensure long-term protection of the outstanding values of the river and compatible management of land and water resources associated with the Musconetcong River; and

(3) 13 municipalities and 3 counties along segments of the Musconetcong River that are eligible for designation have passed resolutions in which the municipalities and counties—

(A) express support for the Musconetcong River Management Plan;

(B) agree to take action to implement the goals of the management plan; and

(C) endorse designation of the Musconetcong River as a component of the Wild and Scenic Rivers System.

SEC. 3. DEFINITIONS. In this Act:

(1) ADDITIONAL RIVER SEGMENT.—The term “additional river segment” means the approximately 4.5-mile Musconetcong River segment designated as “C” in the management plan, from Hughesville Mill to the Delaware River Confluence.

(2) MANAGEMENT PLAN.—The term “management plan” means the comprehensive management plan prepared by the Musconetcong River Management Committee, the National Park Service, the Heritage Conservancy, and the Musconetcong Watershed Association entitled “Musconetcong River Management Plan” and dated April 2002 that establishes goals and actions to—

(A) ensure long-term protection of the outstanding values of the river segments; and

(B) compatible management of land and water resources associated with the river segments.

(3) RIVER SEGMENT.—The term “river segment” means any segment of the Musconetcong River, New Jersey, designated as a scenic river or recreational river by section 3(a)(157) of the Wild and Scenic River Act (as added by section 4).

(4) SECRETARY.—The term "Secretary” means the Secretary of the Interior.

SEC. 4. DESIGNATION OF PORTIONS OF MUSCONETCONG RIVER, NEW JERSEY, AS SCENIC AND RECREATIONAL RIVERS.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end of the section the following:

“(157) MUSCONETCONG RIVER, NEW JERSEY.—

“(A) DESIGNATION.—The 24.2 miles of river segments in New Jersey, consisting of—

“(1) the approximately 3.5-mile segment from Saxon Falls to the Route 46 bridge, to be administered by the Secretary of the Interior as a scenic river; and

“(2) the approximately 20.7-mile segment from the Kings Highway bridge to the railroad tunnels at Musconetcong Gorge, to be administered by the Secretary of the Interior as a recreational river.

“(B) ADMINISTRATION.—Notwithstanding section 10(c), the river segments designated under subparagraph (A) shall not be administered by the National Park System.”.

SEC. 5. MANAGEMENT.

(a) MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall manage the river segments in accordance with the management plan.

(2) SATISFACTION OF REQUIREMENTS FOR PLAN.—The management plan shall be considered to satisfy the requirements for a comprehensive river management plan for the river segments under section 3(d) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(d)).
By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 1097. A bill to amend title 4 of the United States Code to prohibit the double taxation of telecommuters and others who work from home; to the Committee on Finance.

Mr. DODD. Mr. President. I am pleased to rise today, together with my colleague Senator LIEBERMAN, to introduce the Telecommuter Tax Fairness Act of 2005.

The Telecommuter Tax Fairness Act of 2005 will put an end to legal doctrine that unfairly penalizes thousands of workers in Connecticut and in other States throughout the country whose only offense is that they sometimes work from home or from a local office of their employer.

Technology has changed the way business is conducted in America. With the use of cell phones, lap-top computers, email, the Internet, mobile networks, and other telecommunications advancements of the 21st century, Americans have a greater flexibility in where they can work, without compromising productivity. Many citizens now choose to work from home or alternative offices when their physical presence is unnecessary at their primary place of work.

Telecommuting provides enormous benefits for businesses, families, and communities. It helps businesses lower costs and raise worker productivity. It reduces congestion on our roads and rails, and in so doing it lowers pollution. It helps workers better manage the demands of work and family. And last but not least, it can mean lower income taxes for working men and women.

Yet, the many benefits to workers of telecommuting are today placed in jeopardy because of current law in New York and a few other States. Today, New York State requires that workers pay income taxes for the days they commute when their physical presence is unnecessary at their primary place of work. New York State income taxes for the days he was in New York, but not for the days he worked in New Hampshire. When paying his taxes during that time, Mr. Gray worked in New York, but not for the days he was employed by a New Hampshire company. Mr. Gray's only offense is that he sometimes worked in New Hampshire. When paying his taxes during this time, he paid New York State income taxes for the days he was in New York, but not for the days he worked in New Hampshire, New York, however, sought to tax 100 percent of his income and was successful due to its “convenience of employer” rule. On March 29, 2005 the New York Court of Appeals upheld New York’s rule in a 4 to 3 decision. Currently, Mr. Gray is in the process of petitioning the Supreme Court.

A similar story involves Arthur Gray, a New Hampshire resident who worked for the New York Company Cowen & Co. as an investment counselor from 1976 through 1996, and paid income taxes for the days he worked in New York State. While in New York, Mr. Gray worked in New York, but not for the days he was employed by a New Hampshire company. Mr. Gray’s only offense is that he sometimes worked in New Hampshire. When paying his taxes during this time, he paid New York State income taxes for the days he was in New York, but not for the days he worked in New Hampshire, New York, however, sought to tax 100 percent of his income and was successful due to this “convenience of employer” rule.

These are only two examples of the far-reaching consequences of this “convenience of employer” rule. There are thousands of individuals across the country who are adversely impacted by this rule. Most, however, but most lack the time, money, or energy to take their case to court.

Potential for double taxation is not only unfair, it also discourages workers from telecommuting when we should be doing the opposite.

Legislation is needed to protect these honest workers who deserve fair and equitable treatment under the law. The Telecommuter Tax Fairness Act of 2005 accomplishes this by specifically preventing a State from engaging in the current fiction of deeming a non-resident to be in the taxing State when the nonresident is actually working in another State. In doing so, it will eliminate the possibility that citizens will be double-taxed when telecommuting.

Establishing a “physical presence” test—as this legislation would do—is the most logical basis for determining tax status. If a worker is in a State, and taking advantage of that State’s infrastructure, the worker should pay taxes in that State.

Mr. President, it is suggested that the double-taxation quandary can easily be fixed by having other States provide a tax credit to those telecommuters. However, why should Connecticut, or any other
State, be required to allow a credit on income actually earned in the State? If a worker is working in Connecticut, he or she is benefiting from a range of services paid for and maintained by Connecticut including roads, water, police, fire protection, and communications services. It’s only fair that Connecticut ask that worker to help support the services that he or she uses.

This is not just an issue which deals with a small group of citizens from one small State. Rather, this is an issue which affects workers throughout the country. It will only grow more pressing as people and businesses continue to seek to take advantage of new technologies that affect the way we live and work.

I hope our colleagues will favorably consider this legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1097

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

TITLE I—TAX REDUCTION AND SIMPLIFICATION

SECTION 1. SHORT TITLE.

This Act may be cited as the “Telecommuter Tax Fairness Act of 2005”.

SEC. 2. PROHIBITION ON DOUBLE TAXATION OF TELECOMMUTERS.

(a) In General.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following new section:

"§ 127. Prohibition on double taxation of telecommuters and others who work at home.

"(a) PHYSICAL PRESENCE REQUIRED.—

"(1) IN GENERAL.—In applying its income tax laws to the salary of a nonresident individual, a State may only deem such nonresident individual to be present in or working in such State for any period of time if such nonresident individual is physically present in such State for such period and such State may not impose nonresident income taxes on such salary with respect to any period of time when such nonresident individual is physically present in another State.

"(2) DETERMINATION OF PHYSICAL PRESENCE.—For purposes of determining physical presence, no State may deem a nonresident individual to be present in or working in such State on the grounds that such nonresident individual is present at or working at home for the nonresident individual’s convenience.

"(b) DEFINITIONS.—As used in this section—

"(1) STATE.—The term ‘State’ includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

"(2) INCOME TAX.—The term ‘income tax’ has the meaning given such term by section 110(c).

"(3) INCOME TAX LAWS.—The term ‘income tax laws’ includes any statutes, regulations, administrative practices, administrative interpretations, and judicial decisions.

"(4) NONRESIDENT INDIVIDUAL.—The term ‘nonresident individual’ means an individual who is not a resident of the State applying its income tax laws to such individual.

"(5) SALARY.—The term ‘salary’ means the compensation, wages, or other remuneration earned by an individual who is paid for personal services performed as an employee or as an independent contractor.

"(c) NO INFRINGEMENT.—Nothing in this section shall be construed as bearing on—

"(1) any tax laws other than income tax laws,

"(2) the taxation of corporations, partnerships, trusts, estates, limited liability companies, or other entities, organizations, or persons other than nonresident individuals and other than their employees or independent contractors,

"(3) the taxation of individuals in their capacities as shareholders, partners, trust and estate beneficiaries, members or managers of limited liability companies, or in any similar capacities, and

"(4) the income taxation of dividends, interest, annuities, royalties, or other forms of unearned income.

"(b) CLERICAL AMENDMENT.—The table of sections of such chapter 4 is amended by adding at the end the following new item:

"127. Prohibition on double taxation of telecommuters and others who work at home.

"(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

By Mr. SHELBY.

S. 1099. A bill to repeal the current Internal Revenue Code and replace it with a flat tax, thereby guaranteeing economic growth and greater fairness for all Americans; to the Committee on Finance.

Mr. SHELBY. Mr. President, I rise today to once again introduce my flat tax bill. S. 1099 the “Tax Simplification Act of 2005.”

The President has made fundamental tax reform a top priority for his second term. My bill offers that fundamental tax reform and will drastically improve our Nation’s economy and the way Americans go about the business of paying taxes. This bill would repeal the current Internal Revenue Code and create a single rate for all taxpayers—seventeen percent when the tax is fully implemented—and gives tax-free treatment to all savings and investment, not just dividends.

A major reason why I support a flat tax is because it will place more money into the hands of hardworking Americans. It will allow individuals—not the government—to decide how to best spend their money. Lowering taxes allows Americans to keep more of their money to keep up with monthly expenses like, insurance coverage, educational costs, and prescription drugs. Lowering taxes also makes it easier for Americans to save for their retirement through the Social Security system intact and, in fact, provides seniors with more money by repealing the current tax on Social Security benefits.

I have said many times before that our current progressive tax system is unfair. It punishes success and stymies economic growth. The only way we can remedy this is to adopt a single tax rate for all taxpayers. Transitioning to a flat tax will help increase the fairness of the tax code, but it will also increase the incentives to work and thus boost economic growth.

Today our tax code and its regulations total more than 60,000 pages which are complex, confusing and costly to comply with. Were a flat tax in place now, taxpayers would file a return the size of a postcard, and every American would be taxed equally and at the same rate. Rather than spending hours poring over convoluted IRS forms, or resorting to professional tax assistance, the flat tax allows taxpayers to determine their taxes quickly and easily. Everyone will fill out the same simple return, everyone will be taxed at the same rate, and everyone will pay their fair share. Paying taxes may never be a pleasant experience, but at least under a flat tax it wouldn’t be mind-boggling.

I fully realize that the bill I am introducing today is a monumental shift from the current tax code, but the time is ripe for fundamental tax reform. We must not allow the enormity of the task to deter us from making better, more efficient tax laws. I therefore urge my colleagues to join me in support of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1099

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

TITLE I—TAX REDUCTION AND SIMPLIFICATION

Sec. 1. Short title; table of contents.

(a) Short Title.—This Act may be cited as the “Tax Simplification Act of 2005”.

(b) Table of Contents.—

Sec. 1. Short title; table of contents.

TITLE II—SUPERMAJORITY REQUIRED FOR TAX CHANGES

Sec. 201. Supermajority required.

TITLE I—TAX REDUCTION AND SIMPLIFICATION

Sec. 101. Individual income tax.

Sec. 102. Tax on business activities.

Sec. 103. Simplification of rules relating to qualified retirement plans.

Sec. 104. Repeal of alternative minimum tax.

Sec. 105. Repeal of credits.

Sec. 106. Repeal of estate and gift taxes and obsolescent income tax provisions.

Sec. 107. Effective date.

TITLE II—SUPERMAJORITY REQUIRED FOR TAX CHANGES

Sec. 201. Supermajority required.

May 23, 2005
(B) retirement distributions which are includible in gross income for such taxable year, plus
(C) amounts received under any law of the United States (or any State where such amounts are in the nature of unemployment compensation, over
(2) the standard deduction.
(b) STANDARD DEDUCTION.—(1) In the case of purposes of this subtitle, the term ‘standard deduction’ means the sum of—
(A) the basic standard deduction, plus
(B) the additional standard deduction.
(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—
(A) $5,510 in the case of—
(i) a joint return, or
(ii) a surviving spouse (as defined in section 2(a)),
(B) $11,020 in the case of a head of household (as defined in section 2(b)), and
(C) $12,790 in the case of an individual—
(i) who is not married and who is not a surviving spouse or head of household, or
(ii) who is a married individual filing a separate return.
(3) ADDITIONAL STANDARD DEDUCTION.—For purposes of paragraph (1), the additional standard deduction is $5,510 for each dependent (as defined in section 152) who is described in section 151(c) for the taxable year and who is not required to file a return for such taxable year.
(c) RETIREMENT DISTRIBUTIONS.—For purposes of subsection (a), the term ‘retirement distribution’ means any distribution from—
(A) a plan described in section 401(a) which is a governmental plan (as defined in section 2(a)), or
(B) a governmental plan (as defined in section 2(b)), and
(C) a governmental plan (as defined in section 21(d)), or
(D) a governmental plan (as defined in section 403(a)), or
(E) a governmental plan (as defined in section 403(b)), or
(F) a governmental plan (as defined in section 408(a)), or
(G) a governmental plan (as defined in section 501(c)(18)), or
(H) a governmental plan (as defined in section 501(c)(9)).
(5) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $10, such increase shall be rounded to the next highest multiple of $10.
(f) MARRITAL STATUS.—For purposes of this section, marital status shall be determined under section 7703.
SEC. 102. TAX ON BUSINESS ACTIVITIES.
(a) IN GENERAL.—Section 11 of the Internal Revenue Code of 1986 (relating to tax imposed on corporations) is amended to read as follows:
"SEC. 11. TAX IMPOSED ON BUSINESS ACTIVITIES.
(a) TAX IMPOSED.—There is hereby imposed on every person engaged in a business activity a tax equal to 19 percent (17 percent in the case of any years beginning after December 31, 2007) of the business taxable income of such person.
(b) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the person engaged in the business activity, whether such person is an individual, partnership, corporation, or otherwise.
(c) BUSINESS TAXABLE INCOME.—For purposes of this section—
(1) IN GENERAL.—The term ‘business taxable income’ means gross active income reduced by the deductions specified in subsection (d).
(2) GROSS ACTIVE INCOME.—
(A) IN GENERAL.—For purposes of paragraph (1), the term ‘gross active income’ means gross receipts from—
(i) the sale or exchange of property or services in the United States by any person in connection with a business activity, and
(ii) the export of property or services from the United States to any person engaged in a business activity, whether such person is an individual, partnership, corporation, or otherwise.
(B) DISTRIBUTIONS.—For purposes of this section, the term ‘distribution’ means any distribution from—
(i) the employer of an employee, or
(ii) a governmental plan (as defined in section 21(d)), or
(iii) a governmental plan (as defined in section 403(a)), or
(iv) a governmental plan (as defined in section 403(b)), or
(v) a governmental plan (as defined in section 408(a)), or
(vi) a governmental plan (as defined in section 501(c)(18)), or
(vii) a governmental plan (as defined in section 501(c)(9)).
(C) COORDINATION WITH SPECIAL RULES FOR EXCHANGE OF PROPERTIES.—For purposes of paragraph (1), the term ‘distribution’ includes any distribution which is treated as a distribution of property by reason of subparagraph (A) or subparagraph (B) of section 1034 of the Internal Revenue Code of 1986.
(d) DEDUCTIONS.—
(1) IN GENERAL.—The deductions specified in this subsection are—
(A) the cost of business inputs for the business activity,
(B) wages (as defined in section 3121(a) without regard to paragraph (1) thereof) which are paid in cash for services performed in the United States by any person engaged in a business activity as an employee, and
(C) retirement contributions to or under a governmental plan which are for use in connection with a business activity.
(2) ALLOWANCE FOR DEDUCTION.—For purposes of this section, the term ‘business activity’ does not include the performance of services by an employee for the employee’s employer.
(3) INCREASED DEDUCTION.—
(A) IN GENERAL.—The deduction specified in paragraph (1)(A) shall be increased by an amount determined by the Secretary to be equal to—
(i) the amount (as defined in section 3121(a) without regard to paragraph (1) thereof) which is paid by a governmental plan (as defined in section 21(d)) or governmental plan (as defined in section 403(a)) or governmental plan (as defined in section 403(b)) or governmental plan (as defined in section 408(a)) or governmental plan (as defined in section 501(c)(18)), or governmental plan (as defined in section 501(c)(9)) to an employee, or
(ii) the amount paid for services (other than for the services of employees, including retirement contributions paid by governmental plans (as defined in section 21(d)) or governmental plans (as defined in section 403(a)) or governmental plans (as defined in section 403(b)) or governmental plans (as defined in section 408(a)) or governmental plans (as defined in section 501(c)(18)), or governmental plans (as defined in section 501(c)(9))) for use in connection with a business activity.
(4) DETERMINATION.—For purposes of this section, the term ‘governmental plan (as defined in section 21(d)) or governmental plans (as defined in section 403(a)) or governmental plans (as defined in section 403(b)) or governmental plans (as defined in section 408(a)) or governmental plans (as defined in section 501(c)(18)), or governmental plans (as defined in section 501(c)(9))’ includes any governmental plan (as defined in section 21(d)) or governmental plans (as defined in section 403(a)) or governmental plans (as defined in section 403(b)) or governmental plans (as defined in section 408(a)) or governmental plans (as defined in section 501(c)(18)), or governmental plans (as defined in section 501(c)(9)) described in paragraph (3)(A) (other than a governmental plan (as defined in section 21(d)) which is a governmental plan (as defined in section 21(d)) for a governmental activity which does not involve the performance of services by an employee for the employee’s employer).
(5) LIMITATION.—For purposes of this section, the term ‘business activity’ does not include the performance of services by an employee for the employee’s employer.
(e) SPECIAL RULES FOR FINANCIAL INTERMEDIATION SERVICES.—For purposes of this section, the term ‘financial intermediary’ includes any organization which is engaged in the business activity of providing financial intermediary services, the taxable income from such activity shall be equal to the value of the intermediary services provided in such activity.
(f) NO DEDUCTION.—For purposes of this section, the term ‘business activity’ does not include the performance of services by an employee for the employee’s employer.
(g) INCREASED DEDUCTION.—The deduction specified in paragraph (1)(A) shall be increased by an amount determined by the Secretary to be equal to—
(1) the sum of—
(i) $20,000,
(ii) the product of such excess and the 3-month Treasury rate for the last month of such taxable year, multiplied by
(2) the rate of tax imposed by subsection (a) for such taxable year.
(h) CARETAKER OF UNRELATED BENEFACTORS.—If the credit allowable for any taxable year by reason of this subsection exceeds the tax imposed by this section for such taxable year, then (in lieu of treating such excess as an overpayment) the sum of—
(1) such excess, plus
(2) the product of such excess and the 3-month Treasury rate for the last month of such taxable year, shall be allowed as a credit against the tax imposed by this section for the following taxable year.
(i) 3-MONTH TREASURY RATE.—For purposes of this subsection, the 3-month Treasury rate is the rate determined by the Secretary based on the average market yield (during any 1-month period selected by the Secretary and ending in the calendar month in which the determination is made) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 months or less."

(b) TAX ON EXEMPT ENTITIES PROVIDING NONCASH COMPENSATION TO EMPLOYEES.—Section 4977 of such Code is amended to read as follows:
SEC. 4977. TAX ON NONCASH COMPENSATION PROVIDED TO EMPLOYEES NOT ENGAGED IN BUSINESS ACTIVITY.

"(a) Imposition of Tax.—There is hereby imposed a tax equal to 19 percent (17 percent in the case of calendar years beginning after December 31, 2007) of the value of noncash compensation provided during the calendar year by an employer for the benefit of employees to whom this section applies.

"(b) Liability for Tax.—The tax imposed by this section shall be paid by the employer.

"(c) Excludable Compensation.—For purposes of subsection (a), the term 'excludable compensation' means any remuneration for services performed as an employee other than—

"(1) wages (as defined in section 3121(a) without regard to paragraph (1) thereof) which are paid in cash,

"(2) remuneration for services performed outside the United States, and

"(3) retirement contributions to or under any plan or arrangement which makes retirement distributions (as defined in section 401) which are paid in cash,

"(4) special requirements for plan benefiting self-employed individuals.—Subsections (a)(10)(A) and (d) of section 401.

"(5) Prohibition of tax-exempt organizations and government entities from having qualified cash or deferred arrangements.—Section 401(k)(4)(B).

"(b) Employer Reversions of Excess Pension Asset.—No employer contributions to or under a defined benefit plan (other than a multiemployer plan) to an employer—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of section 401(a) or any other provision of law solely by reason of such transfer (or any other action authorized under this section), and

"(2) such transfer shall not be treated as a prohibited transaction for purposes of section 4975.

The gross income of the employer shall include the amount of any qualified transfer made during the taxable year.

"(b) Qualified Transfer.—For purposes of this section—

"(1) in general.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to the employer, and

"(B) with respect to which the vesting requirements of subsection (c) are met in connection with the plan.

"(2) Only 1 transfer per year.—No more than one qualified transfer to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(c) Vesting Requirements of Plans Transferring Assets.—The vesting requirements of this subsection are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who transfers with respect to which the vesting requirements of subsection (c) are met in connection with the plan).

"(d) Definition and Special Rule.—For purposes of this section—

"(1) Excess Pension Assets.—The term 'excess pension assets' means the excess (if any)—

(A) of excess pension assets of a defined benefit plan to the employer.

"(B) with respect to which the vesting requirements of subsection (c) are met in connection with the plan.

"(2) Only 1 transfer per year.—No more than one qualified transfer to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(3) Exclusion of Plan Benefits.—The term 'excluded plan benefits' means the benefits (if any) of—

(A) any qualified transfer under section 412(c)(7)(A)(i), over

(B) the greater of—

(i) the amount determined under section 412(c)(7)(A)(i), or

(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(2) Coordination with section 422.—In the case of a qualified transfer—

"(A) any assets transferred in a plan year on or before the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412, be treated as assets in the plan as of the valuation date for such year, and

"(B) the plan shall be treated as having a net funded status at least equal to the amount equal to the amount of such transfer and for which amortization charges begin for the first plan year after the plan year in which such transfer occurs, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'.

SEC. 104. REPEAL OF ALTERNATIVE MINIMUM TAX.

Part VI of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is hereby repealed.

SEC. 105. REPEAL OF CREDITS.

Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is hereby repealed.

SEC. 106. REPEAL OF ESTATE AND GIFT TAXES AND OBSoLETE INCOME TAX PROVISIONS.

(a) Repeal of Estate and Gift Taxes.—

"(1) in general.—Subtitle B of the Internal Revenue Code of 1986 is hereby repealed.

"(2) Effective date.—The repeal made by paragraph (1) shall apply to the estates of decedents dying, and gifts and generation-skipping transfers made, after December 31, 2005.

(b) Repeal of Obsolete Income Tax Provisions.—

"(1) in general.—Except as provided in paragraph (2), chapter 1 of the Internal Revenue Code of 1986 is hereby repealed.

"(2) Exceptions.—Paragraph (1) shall not apply to—

(A) sections 1, 11, and 63 of such Code, as amended by this Act,

(B) those provisions of chapter 1 of such Code which are necessary for determining whether or not—

(i) retirement distributions are includible in the gross income of employees, or

(ii) an organization is exempt from tax under such chapter; and

(C) subsection D of such chapter 1 (relating to deferred compensation).

SEC. 107. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall apply to taxable years beginning after December 31, 2005.

TITLE II—SUPERMAJORITY REQUIRED FOR TAX CHANGES

SEC. 201. SUPERMAJORITY REQUIRED.

(a) In General.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, substitute, or conversion on any matter that includes any provision that—

"(1) increases any Federal income tax rate,

"(2) creates any additional Federal income tax rate,

"(3) reduces the standard deduction, or

"(4) provides any exclusion, deduction, credit, or other benefit which results in a reduction in Federal revenues;

(b) Waiver or Suspension.—This section may be waived or suspended in the House of Representatives or the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

By Mrs. MURRAY (for herself and Mr. DeWINE):

S. 1101. A bill to amend the Head Start Act to address the needs of victims of child abuse and neglect, children in foster care, children in kinship care, and homeless children; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, today I rise with Senator DeWINE to introduce the "Improving Head Start Access for Homeless and Foster Children Act of 2005.

Head Start has made significant strides in providing comprehensive services to low-income children. Since
Head Start was established in 1965, low-income preschool-aged children have received education, health, nutritional, social, and developmental services they would not otherwise have access to. Unfortunately, children in greatest need of these services—homeless and foster children—are not receiving those services at adequate levels.

It is estimated that 1.35 million children experience homelessness each year, and the mean income of a homeless family is only 16 percent of the Federal poverty level. Due to extreme poverty and the inherent instability of homelessness, children facing these conditions have considerably higher physical, mental, and emotional difficulties. It is not surprising that homeless children are reported to be twice as likely to have a learning disability and three times as likely of having an emotional or behavioral problem that interferes with their learning.

These children also face significant barriers to participation in Head Start. These children lack transportation. They lack the necessary documentation. They suffer from the invisibility of homeless families which leaves the community unaware of the need to include these children in Head Start recruitment and prioritization. As a result of these and other barriers, only 15 percent of preschool children identified as homeless are enrolled in preschool programs, substantially lower than the 57 percent of low-income preschool children. Currently only 2 percent of the more than 900,000 students served by Head Start are children identified as homeless. States report that 60 percent of homeless students are having difficulties gaining access to Head Start.

In addition to homeless children, kids in foster care face a unique set of challenges which both increase their risk for the stability and educational services provided by Head Start. Specifically, these same challenges also hinder their ability to gain access to those services. Foster children are likely to suffer from both emotional and physical instability. With more than 500,000 children in foster care and a shortage of foster parents in this country, these children often go without the attention and advocacy that preschool age children need.

More than 40 percent of the children in homeless families are reported to be five or younger. The first years of a child’s life significantly impact personal development and future academic achievement. That is why I again stand with Senator DeWine to increase access to Head Start for homeless and foster children.

Our bill would ensure equal access and benefits from to early education and supportive services provided by Head Start for the Nation’s poorest children. It would make all homeless children eligible for Head Start. The bill also allow homeless children to be immediately enrolled in Head Start by allowing them extra time to provide required documentation; providing that that documentation be in a reasonable time frame. And, our bill would require school, district liaisons to assist families in obtaining necessary documents. In addition, our bill increases Head Start’s approach to homeless and foster children. Further, the bill would reduce barriers by encouraging coordination between Head Start agencies and community programs that serve these vulnerable populations.

Again, I would like to thank my colleague Senator DeWine for his many efforts in supporting homeless and foster youth. I urge the Senate to ensure that all children, despite their background and socioeconomic situation receive equal access to a quality education.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1101
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 “Improving Head Start Access for Homeless and Foster Children Act of 2005.”

SEC. 2. DEFINITIONS. Section 637 of the Head Start Act (42 U.S.C. 9832) is amended by adding at the end the following:

“(18) The term ‘family’ means all persons living in the same household who are—

(A) supported by the income of at least 1 parent or guardian (including any relative acting in place of a parent, such as a grandparent) of a child enrolling or participating in the Head Start program; and

(B) related to the parent or guardian by blood, marriage, or adoption.

(19) The term ‘homeless child’ means a child described in section 725(2) of the McKinney Vento Homeless Assistance Act (42 U.S.C. 11432(a)(2)).

(20) The term ‘homeless family’ means the family of a homeless child.”

SEC. 3. ALLOTMENT OF FUNDS; LIMITATIONS ON ASSISTANCE. (a) QUALITY IMPROVEMENT. Section 640(a)(3) of the Head Start Act (42 U.S.C. 9835(a)(3)) is amended—

(1) in subparagraph (B)—

(A) in clause (ii), by inserting “in foster care, children referred to Head Start programs by child welfare agencies,” after “background”; and

(B) in clause (v), by inserting “, including efforts in supporting homeless and foster children,” after “(Ê) by inserting “and families” after “communities”; and

(ii) by inserting “and families” after “communities”;

(c) by redesignating clause (vi) as clause (vii); and

(d) by inserting after clause (v) the following:

“(vi) To conduct outreach to homeless families and to increase Head Start program participation by homeless children.”

(b) COLLABORATION GRANTS. Section 640(a)(5)(C)(iv) of the Head Start Act (42 U.S.C. 9835(a)(5)(C)(iv)) is amended—

(1) by inserting “child welfare (including child protective services),” after “child care,”;

(2) by inserting “home-based services (including home visiting services),” after “family literacy services”;

(3) by striking “and services for homeless children” and inserting “services provided through grants under section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a) and parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq.),” after “foster care, and”;

(4) by inserting “foster care and,” after “homeless children (including coordination of services with the Coordinator for Education of Homeless Children and Youth designated under section 722 of the McKinney Vento Homeless Assistance Act (42 U.S.C. 11432)), children in foster care, and children referred to Head Start programs by child welfare agencies”;

(c) ALLOCATION OF FUNDS. Section 640(b)(2) of the Head Start Act (42 U.S.C. 9835(g)(2)) is amended—

(1) in subparagraph (C)—

(A) by inserting “organizations and agencies providing family support services, child abuse prevention services, protective services, and foster care, and” after “including”;

(B) by striking “and public entities serving children with disabilities” and inserting “, public entities, and individuals serving children with disabilities and homeless children (including local educational agency liaisons designated under section 722(g)(1)(J)(ii) of the McKinney Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii))”;

(2) in subparagraph (F), by inserting “and families” after “low-income families”;

(3) in subparagraph (H), by inserting “including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii))” after “community involved”;

(d) ENROLLMENT OF HOMELESS CHILDREN. Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end the following:

(cm) The Secretary shall issue regulations to remove barriers to the enrollment and participation of homeless children in Head Start programs. Such regulations shall require Head Start agencies to—

“(1) implement policies and procedures to ensure that homeless children are identified and prioritized for enrollment in Head Start programs; and

“(2) allow homeless children to apply, enroll in, and attend Head Start programs while required documents, such as proof of residency, immunization, and other medical records, birth certificates, and other documents, are obtained; and

“(3) coordinate individual Head Start programs with programs for homeless children (including efforts to implement subtitle B of title VII of the McKinney Vento Homeless Assistance Act (42 U.S.C. 11461 et seq.)).”;

SEC. 4. DESIGNATION OF HEAD START AGENCIES. Section 641(d)(4) of the Head Start Act (42 U.S.C. 9836(d)(4)) is amended—

(1) in subparagraph (B), by inserting “including providing services, to the extent
practicable, such as transportation, to enable such parents to participate after "level!"
(2) in subparagraph E(iv), by striking "and" and inserting a semicolon;
(3) in subparagraph F, by inserting "and" after the semicolon; and
(4) by adding at the end the following:"(G) to meet the needs of homeless children (including, to the extent practicable, the transportation needs of such children), children in foster care, and children referred to Head Start programs by child welfare agencies;"

SEC. 5. QUALITY STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS.
Section 641A of the Head Start Act (42 U.S.C. 9806a) is amended—
(1) in subsection (a)(2)(B)—
(A) in clause (iii), by inserting "homeless children, children being raised by grandparents or other relatives, children in foster care, children referred to Head Start Programs by child welfare agencies," after "children with disabilities;" and
(B) in clause (vi), by striking "background and family structure of such children" and inserting "background, family structure of such children (including the number of children being raised by grandparents and other relatives and the number of children in foster care), and the number of homeless children;" and
(2) in subsection (c)(2)(C), by striking "(disabilities" and inserting "disabilities, homeless children, children being raised by grandparents or other relatives, children in foster care, children referred to Head Start programs by child welfare agencies)";

SEC. 6. POWERS AND FUNCTIONS OF HEAD START TRANSITION.
Section 612 of the Head Start Act (42 U.S.C. 9837) is amended—
(1) in subsection (b)—
(A) in paragraph (1), by inserting "mental health services and treatment, domestic violence services, and" after "participating children;"
(B) in paragraph (10), by striking "; and" and inserting a semicolon;
(C) in paragraph (11)(B), by striking the period and inserting "; and"; and
(D) by adding at the end the following: "(12) inform foster parents or grandparents or other relatives raising children enrolled in the Head Start program, that they have a right to participate in programs, activities, or services carried out or provided under this subchapter;";
(2) in subsection (c), by inserting ", the agencies responsible for administering section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a), parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq., and 670 et seq.), and programs under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), homeless shelters, other social service agencies serving homeless children and families," after "(42 U.S.C. 9837 et seq.;)"; and
(3) in subsection (d)(2)—
(A) in subparagraph (A), by striking "; and" and inserting a semicolon;
(B) in subparagraph (B), by striking the period and inserting "; and"; and
(C) by adding at the end the following: "(C) collaborating to increase the program participation of homeless children."

SEC. 7. HEAD START TRANSITION.
Section 642A of the Head Start Act (42 U.S.C. 9837a) is amended—
(1) in paragraph (2), by inserting "local educational agency liaisons designated under section 612(a)(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(3)(D)(1)(I))," after "social workers;"

(B) in paragraph (5), by inserting ", including the needs of homeless children and their families" before the semicolon;
(C) in paragraph (10), by striking "; and" and inserting a semicolon;
(D) in paragraph (11), by striking the period and inserting "; and";
(E) by adding at the end the following:

"(12) assist Head Start agencies and programs in increasing the program participation of homeless children;" and
(2) in subsection(e)—
(A) by inserting "training for personnel providing services to children determined to be abused or neglected, children receiving child welfare services, and children referred by child welfare agencies," after "language;", and
(B) by inserting "and family" after "community.

SEC. 11. RESEARCH, DEMONSTRATIONS, AND EVALUATION.
Section 649 of the Head Start Act (42 U.S.C. 9844) is amended—
(1) in subsection (a)(1)(B), by striking "disabilities)" and inserting "disabilities, homeless children, children who have been abused or neglected, and children in foster care;" and
(2) in subsection (c)(1)(B) by inserting ", including those that work with children with disabilities, children who have been abused and neglected, children in foster care, children and adults who have been exposed to domestic violence, children and adults facing mental health and substance abuse problems, and homeless children and families" before the semicolon.

SEC. 12. REPORTS.
Section 650(a) of the Head Start Act (42 U.S.C. 9846a) is amended—
(1) in the matter preceding paragraph (1), by striking "disabled" and inserting "disabled child, homeless child, child in foster care, and children referred by a child welfare agency," after "background;" and
(2) in paragraph (8), by inserting "homelessness, whether the child is in foster care or was referred by a child welfare agency," after "background;" and
(3) in paragraph (12), by inserting "substance abuse treatment, housing services," after "physical fitness.

Mr. DEWINE, Mr. President, today I join with Senator MURRAY to introduce the "Improving Head Start Access for Homeless and Foster Children Act of 2005." The problems children who are homeless and in foster care face are daunting. I am grateful to Senator MURRAY for her leadership in this area. She and I worked on coordinating and improving access to services for homeless and foster children in the Individuals with Disabilities Education Act (IDEA), and I am glad to have had the opportunity to work with her again on this issue.

Who is more vulnerable than a child, under the age of five, living on the street or in a shelter? Who is more vulnerable than a child under five who has been abused and neglected? Just because young children cannot speak to their needs does not mean that they should have no voice. The hundreds of thousands of children in the United States who experience homelessness, separation from their parents, or abuse and neglect each year are in need of our help to ensure that their needs are met. Unfortunately, their voices are all too often not heard and their needs go unmet. The bill we are introducing

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today would serve as one more step, one move closer, to ensuring homeless and foster children are visible and their voices audible.

In the United States, on any given day, more than half a million children are in foster care, 20,000 of whom are in my home State of Ohio, alone. Of this group, 27 percent are age five and under. In 2003, we also know that more than 900,000 children were found to be victims of abuse or neglect. Children as young as six months old can suffer from long-term effects after experiencing or witnessing trauma. More than half of the children in foster care experience developmental delays. Children in foster care have four times more chronic medical conditions, birth defects, emotional disorders, and academic failures than children of similar socioeconomic backgrounds who never enter foster care.

In its 2000 Report to Congress, the U.S. Department of Education noted that only 15 percent of preschool children identified as homeless were enrolled in preschool programs. In comparison, 75 percent of non-homeless preschool children participated in preschool in 1999. These statistics are especially troubling in light of the fact that over 40 percent of children living in shelters are under the age of five—an age when early childhood education can have a significant positive impact on a child’s development and future academic achievement.

Head Start began in 1965, and since its inception, it has served more than 22 million America’s poorest children. This important program has helped these children build the skills they need to succeed in school and provide them with the services they need to be healthy and active in society. With its comprehensive services and family-centered approach, Head Start often offers the most appropriate educational setting for children and families experiencing homelessness and for children in care. By providing comprehensive health, nutrition, education, and social services, Head Start helps provide for the needs of these vulnerable children. And, with the passage of this bill, Head Start could help even more.

Yet, programmatic and policy barriers continue to limit their access to and participation in Head Start. Some barriers to Head Start access are related to lack of coordination with child welfare agencies, high mobility, lack of required documentation, and lack of transportation.

Our bill would encourage Head Start grantees to reduce these barriers by directing them to increase their outreach to homeless and foster children. It also would authorize the Administration to provide resources to Head Start grantees and community service providers and homeless and foster children. It would increase the coordination for these populations as they transition out of Head Start to elementary school and increase reporting requirements. And, it would allow homeless children to be automatically eligible for Head Start.

Again, I thank my colleague, Senator MURRAY, for her leadership on this issue. I look forward to working with her to incorporate these ideas into the Head Start reauthorization bill currently being considered in the Health, Education, Labor, and Pensions Committee.

By Mr. ROCKEFELLER (for himself and Mr. BURNS):

S. 1102. A bill to extend the aviation war risk insurance program for 3 years; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce legislation to mandate that the Federal Aviation Administration (FAA) extend the offering of war risk insurance through August 31, 2007, to our Nation’s air carriers. I am very pleased that Senator BURNS, the Chairman of the Aviation Subcommittee, has agreed to co-sponsor this legislation.

Prior to September 11, 2001, war risk insurance was generally attainable and affordable for U.S. airlines. But, as we know, that day changed everything for America. No industry was more dramatically and fundamentally changed than the U.S. aviation industry. Recognizing that the commercial insurance market was not willing to provide war risk insurance to the airline industry in the immediate aftermath of September 11, Congress required the FAA to provide war risk insurance to U.S. air carriers. We expected that in time U.S. air carriers would be able to obtain commercial war risk insurance. Unfortunately, the commercial war risk insurance market has priced its products beyond the means of our air carriers. According to the Air Transport Association, a return to the commercial market to obtain war risk insurance could cost U.S. airlines $600 million to $700 million a year, up from the current $40 million. This lack of a vibrant competitive commercial market, last year, Congress extended its mandate that the FAA provide this insurance.

In a report to Congress, the FAA noted that even though war risk insurance is available in the private market, it is offered on terms that the industry just cannot afford. My bill would mandate the continuation of this vital program through August 31, 2008. In time, we hope the private market will be able to offer this coverage, but the reality is that the insurance industry continues to seek exorbitant rates for this coverage. The market has failed and it is the government’s responsibility to provide this insurance as we have done in previous times of war.

The financial conditions faced by domestic airlines have seen little, if any, improvement. This legislation is supported by the low-cost carriers who are the wealthiest companies in the industry, and profitability would be at risk if they were forced to go to commercial market for this insurance at this time. The current commercial market is simply unable to provide adequate war-risk coverage without unreasonable cost to airlines. For airlines, private coverage would mean annual payment increases of millions of dollars. Even with FAA insurance coverage, airlines are projected to lose $500 million this year. This legislation will help the airlines weather their current financial crisis. If U.S. airlines were forced to go to the commercial market for this insurance, we would likely see more airlines in bankruptcy or cease to exist at all.

I believe that airlines remain a prime target for terrorist acts. It is because of this threat that the commercial insurance market is unaffordable for the airlines. My legislation seeks to address a pressing problem facing one of the most critical industries in the country. My bill is one small but important measure that Congress can take to make sure our nation has a vibrant and financially secure airline industry.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

SECTION 1. EXTENSION OF AIRLINE WAR RISK POLICIES AND TERRORISM COVERAGE.

(a) Extension of Policies.—Section 44392(f) of title 49, United States Code, is amended by striking “August 31, 2005,” in paragraph (1) and inserting “August 31, 2006,” and may extend through December 31, 2006,” in paragraph (2) and inserting “August 31, 2008,” in paragraph (3) and inserting “August 31, 2006,” and may extend through December 31, 2008.”.

(b) Extension of Terrorism Coverage.—Section 44303(b) of title 49, United States Code, is amended by striking “December 31, 2005,” and inserting “December 31, 2008.”.

By Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. WYDEN, Mr. Kyl, Mr. SCHUMER, Mr. CRAPO, Mr. PRYOR, Mr. JeffFords, and Mr. FRIST):

S. 1103. A bill to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax; to the Committee on Finance.

Mr. BAUCUS. Mr. President, this weekend, millions of Americans watched in suspense as Anakin Skywalker was lured to the Dark Side and became Darth Vader. What millions of those same Americans may not be aware of is another Darth Vader lurking in our tax code; that is, the Alternative Minimum Tax, or AMT.

The AMT has many of the same qualities as Anakin Skywalker. The AMT was supposed to bring order and fairness to the tax world, but it eventually got off on the wrong path and became a threat to middle-income taxpayers. Both Skywalker and the AMT started off with great intentions, but eventually became astray. And now we have the Darth Vader of the Tax Code bearing down on millions of unsuspecting families.
That is why I am pleased to join with my friend and Chairman Chuck Grassley, and our fellow committee colleagues, Senators Wyden and Kyl, to introduce legislation today that will repeal the individual AMT. Our bill simply says that individuals beginning January 1, 2006 would zero out their AMT and zero dollars under the AMT. Further, our bill provides that individuals with AMT credits can continue to use those up to 90 percent of their regular tax liability.

If we do not act, CRS estimates that in 2006, the family-unfriendly AMT will hit middle-income families earning $63,000 with three children. What was once meant to ensure that a handful of millionaires did not eliminate all taxes through excessive deductions is now meaning millions of working families, including thousands in my home State of Montana, are subject to a higher stealth tax. It is truly bizarre, Mr. Chairman, that we have designed a tax deeming more children “excessive deductions” and duly paying your State taxes a bad thing. Already, 5,000 Montana families pay a higher tax because of the AMT. But this number could multiply many times over if we do not act soon.

Not only is the AMT unfair and poorly targeted, it is an awful mess to figure out. The Finance Committee heard testimony today from our National Taxpayer Advocate, who has singled out this item as causing the most complex, most human, most taxable taxpayer, and also from a tax practitioner who has seen first-hand how difficult this is for her clients. We heard also from other witnesses who said it is time for repeal of the AMT.

Of course, repeal does not come without cost and that cost is significant even if we assume the 2001 and 2003 tax cuts are not extended. We are committed to working together to identify reasonable offsets. Certainly, I do not think we want a tax system unfair by placing a higher tax burden on millions of middle-income families with children. But it does not serve those families either if our budget deficit is significantly worse.

Again, I look forward to working with my colleagues on this AMT repeal bill will put an end to the Darth Vader of the tax code, without any sequels.

By Mrs. CLINTON (for herself, Mr. Chafee, Mr. Nelson of Florida, Ms. Collins, Mr. Bingaman, and Ms. Cantwell):

S. 1104. A bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children’s health insurance programs; to the Committee on Finance.

Mrs. CLINTON. Mr. President, I rise to introduce legislation that would allow States to use Federal funds to provide critical healthcare services to pregnant women and children. I want to thank Senator Chafee for his lead-ership on this important issue. I also want to recognize former Senator Bob Graham and the late Senator John Chafee, who championed this legislation for many years. Their commitment laid the groundwork for our bill introduction today.

This report, Immigrant Children’s Health Improvement Act, is fundamentally about three things—fairness, fiscal relief, and financial savings.

I will start with fairness. All across New York and America, legal immi-

grants work hard, pay taxes, and exercise their civic responsibilities. I see examples of this every day in New York. They fight for our country in the military. They contribute to our Na-

tion’s competitiveness and economic growth. They help revitalize neighbor-
hoods and small towns across the country. And most are fiercely proud to call themselves Americans.

Yet, in 1996, Congress denied safety net services to legal immigrants who had been in the country for less than 5 years. Today, Senator Chafee and I are here to introduce legislation that would take a first step towards cor-
recting that injustice. The Immigrant Children’s Health Improvement Act will allow Federal funds to make SCHIP, the State Children’s Health Improvement Program, and Medicaid available to pregnant women and children who are legal immigrants within the 5-year ban.

There is also an urgent need for this legislation. An Urban Institute study found that children of immigrants are three times as likely to be in fair or poor health. While most children receive preventative medicine, such as vaccines, too often immigrant children do not. They are forced to receive their healthcare via emergency rooms—the least cost-effective place to provide care. To make matters worse, minor illnesses, which would be easily treated by a pediatrician, snowball into life-threatening conditions.

This legislation is also a matter of good fiscal policy. Today, 19 States, including New York and Rhode Island, plus the District of Columbia, use State funds to provide healthcare services to legal immigrants within the 5-year waiting period. According to the most recent estimates from the Congressional Budget Office, at least 155,000 children and 60,000 adults are receiving these services. An estimated 397,000 recent legal immigrants would be eligible to receive these services if their States opt to take advantage of the program.

And finally, this bill is about long-term healthcare cost savings. Accord-
ing to the National Bureau of Eco-
mic Research, covering uninsured children and pregnant women through Medicaid can reduce unnecessary hos-
pitalization by 22 percent. Pregnant women who forgo prenatal care are likely to deliver preterm babies during pregnancy, which results in higher costs for postpartum care. And women without access to prenatal care are four times more likely to deliver low birthweight infants and seven times more likely to deliver prematurely than women who receive prenatal care, according to the Institute of Medicine. All of these health outcomes are costly to society and to the individuals involved.

Thank you for allotting me this time to speak on such an urgent matter. I look forward to working with you and the rest of my colleagues to enact this bill into law in the near future.

By Mr. DODD (for himself, Mr. Cochran, Mr. Levin, Mr. Kennedy, and Mr. Akaka) to introduce The Immigrant Children’s Health Improvement Act of 1996 regarding international and foreign language studies; to the Committee on Health, Education, Labor, and Pensions.


DODD. Mr. President, I rise today with Senators Cochran, Levin, Kennedy and Akaka to introduce The International and Foreign Language Studies Act of 2005.

In recent years, foreign language needs have significantly increased throughout the Federal Government due to the presence of a wider range of security threats, the emergence of new nation states, and the globalization of the American economy. Likewise, American business increasingly needs internationally experienced employees to compete in the global economy and to manage a culturally diverse workforce.

Currently, the U.S. government requires 1.6 million employees with foreign language skills across 70 Federal agencies. These agencies have stated over the last few years, that translator and interpreter shortfalls have adversely affected agency operations and hindered U.S. military, law enforcement, intelligence, and diplomatic efforts.

Despite our growing needs, the number of undergraduate foreign language degrees conferred is only one percent of all degrees. Only one third of undergraduate graduates report that they are taking foreign language courses and only 11 percent report that they have studied abroad.

At a time when our security needs are more important than ever, at a time when our economy demands that we enter new markets, and at a time when the world requires us to engage in diplomacy in more thoughtful and considered ways, it is extremely important that we have at our disposal a multilingual, multicultural, internationally experienced workforce. The Dodd-Cochran International and Foreign Language Studies Act attempts to do this in a number of ways.

By Mr. DODD (for himself, Mr. Cochrano, Mr. Levin, Mr. Kennedy and Mr. Akaka) to introduce The International and Foreign Language Studies Act of 2005.
data on international education and foreign language needs so that we know and understand exactly what our needs in this area are. Within the Institute for International and Public Policy, the bill provides scholarships and creates an “expert track” for doctoral students in areas of international studies and languages. And, most importantly, the Dodd-Cochran bill will demonstrate our nation's commitment to increasing the foreign language proficiency and international expertise of our citizens by investing appropriately and historically in international education, including international business education, to allow for more opportunities for more students.

The Higher Education Act authorizes the Federal Government’s major activities as they relate to financial assistance for students attending colleges and universities. It provides aid to institutions of higher education, services to help students complete high school and enter and succeed in postsecondary education, and mechanisms to improve the training of our emerging workforce. This bill will help fulfill that mission.

Foreign language skills and international study are vital to secure the future economic welfare of the United States in an increasingly international economy. Foreign language skills and international study are also vital for the nation to meet 21st century security challenges, especially and effectively, especially in light of the terrorist attacks on September 11, 2001. I hope our colleagues who are not co-sponsoring this bill will give it serious consideration. By working together, I believe that the Senate as a body can act to ensure that we strengthen our Nation’s security and economy by capitalizing on the talents and dreams of those who wish to enter the international arena.

Mr. ALLARD. Mr. President, it is with much excitement and anticipation that I, along with Congresswoman MUSGRAVE in the House of Representatives, introduce legislation known as “The Arkansas Valley Conduit.” This bill will ensure the expeditious construction of a pipeline that will provide the small, financially strapped towns and water agencies along the Arkansas with safe, clean, affordable water. By creating a Federal-Local cost share to help offset the costs of constructing the Conduit, this legislation will protect the future of Southern Colorado. First introduced during the 107th Session of Congress and subsequently in the 108th, we have re-drafted the legislation for the 109th Session to create a stronger stand-alone bill. Congresswoman MUSGRAVE and I have worked hard to craft it so that it meets the needs of a region of Colorado that has suffered from decades of inadequate drinking water supplies. On the heels of one of the worst droughts in Colorado history, the Conduit will provide a dependable source of water to communities—water that will allow these communities to grow and prosper.

By way of background, the Arkansas Valley Conduit was originally authorized by Congress forty years ago as a part of the Fryingpan-Arkansas Project. Due to the authorizing statute’s lack of a cost share provision and the Federal Government’s economic status, the Conduit was never built. Until recently, the region has been fortunate to enjoy an economical source of water, primarily through the transport of Project Water: the Arkansas River. Sadly, the water quality in the Arkansas has degraded to a point where it is no longer economical to use as a means of transport. At the same time, the Federal Government has continued to strengthen its unfunded water quality standards.

Several years ago, in an effort to resurrect the Conduit, Senator Ben Nighthorse Campbell and I worked to secure $250,000 from a Bureau of Reclamation Reclamation Reform and Development Statement on the project. Thanks to this effort, the people of the valley began to realize that the Conduit may one day be more than just a pipedream, and that Congress was serious about fulfilling the promise of the Fryingpan-Arkansas Project.

Our legislation calls for a 80/20 Federal/Local cost share. This is a sizeable sum, but is a far cry from the estimated $640 million it would take to build new treatment facilities for each of the communities if the Conduit was not built. It requires cooperation of the Department of the Interior, U.S. Army Corps of Engineers and local project participants.

The Arkansas Valley Conduit will deliver fresh, clean water to dozens of valley communities and tens-of-thousands of people along the river. Local community participants continue to explore options for financing their share of the costs, and are working hard to develop the organization that will oversee the Conduit project. I applaud those in the community who have worked so hard for the past several years to make the Conduit a reality. Upon its completion, it will stand as testament to a pioneering vision and commitment to sensible water policy.

With the help of my colleagues, the promise made by Congress forty years ago to the people of Southeastern Colorado, will finally become a reality.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1106

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 “Arkansas Valley Conduit Act”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Public Law 87–590 (76 Stat. 389) and related authorizing legislation authorized the Fryingpan-Arkansas project, including construction of the Arkansas Valley Conduit, a pipeline extending from Pueblo Reservoir, Pueblo, Colorado to Lamar, Colorado; 

(2) the Arkansas Valley Conduit was never built, partly because of the inability of local communities to pay 100 percent of the costs of construction of the Arkansas Valley Conduit;

(3) in furtherance of the goals and authorizations of the Fryingpan-Arkansas project, it is necessary as a means of transport for the construction of the Arkansas Valley Conduit;

(4) the construction of the Arkansas Valley Conduit is necessary for the continued viability of southeast Colorado; and

(5) the Arkansas Valley Conduit would provide the communities of southeast Colorado with safe, clean, and affordable water.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate water supply for the beneficiaries identified in Public Law 87–590 (76 Stat. 389) and related authorizing documents and subsequent studies; and

(2) to establish a cost-sharing requirement for the construction of the Arkansas Valley Conduit.
SEC. 3. ARKANSAS VALLEY CONDUIT, COLORADO.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the “Secretary”) shall plan, design, and construct a water delivery pipeline, and branch lines as needed, from a location in the vicinity (as determined by the Secretary of Pueblo Reservoir to a location in the vicinity (as determined by the Secretary of Lamar, Colorado, to be known as the “Arkansas Valley Conduit”), without regard to the cost-estimating for the Fryingpan Arkansas Project established under section 7 of Public Law 87–590 (76 Stat. 393).

(b) IN-PERSON ENTITY.—

(1) DESIGNATION.—The Southeastern Colorado Water Conservancy District, or a designee of the Southeastern Colorado Water Conservancy District that is located under State law as an entity that has taxing authority, shall be the lead non-Federal entity for the Arkansas Valley Conduit.

(2) ACTUAL COSTS.—If the actual costs of construction exceed the estimated costs, the difference between the actual costs and the estimated costs shall be apportioned in accordance with subsection (e)(2)(C), and

(c) COOPERATION.—To the maximum extent practicable during the planning, design, and construction of the Arkansas Valley Conduit, the Secretary shall collaborate and cooperate with the United States Army Corps of Engineers, other Federal agencies, and non-Federal entities.

(d) SALE OF BENEFITS.—(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall prepare an estimate of the total costs of constructing the Arkansas Valley Conduit.

(2) ACTUAL COSTS.—If the actual costs of construction exceed the estimated costs, the difference between the actual costs and the estimated costs shall be apportioned in accordance with subsection (e)(2)(C).

(3) AGREEMENT ON ESTIMATE AND DESIGN.—The estimate prepared under paragraph (1), and the final design for the Arkansas Valley Conduit, shall be prepared in cooperation with the lead non-Federal entity.

(A) subject to the agreement of the Secretary and the lead non-Federal entity;

(B) developed in cooperation with the lead non-Federal entity; and

(c) consistent with commonly accepted engineering practices.

(e) COST-SHARING REQUIREMENT.—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of the total costs of the planning, design, and construction of the Arkansas Valley Conduit shall be 80 percent.

(B) INCREASED COSTS.—The Federal share of any increased costs that are a result of fundamental design changes conducted at the request of the lead non-Federal entity.

(ii) OTHER CAUSES.—For any increased costs that are from causes (including increased supply and labor costs and unforeseeable field changes) other than fundamental design changes referred to in clause (i) and paragraph (IV),—

(I) the Federal share shall be 80 percent; and

(ii) the non-Federal share shall be 20 percent.

(D) UP-FRONT PAYMENT.—Not later than 180 days after the date of completion of the cost estimate under subsection (d), the Secretary and the lead non-Federal entity may enter into an agreement under which—

(i) the Secretary pays 100 percent of the non-Federal share on behalf of the non-Federal entity; and

(ii) the non-Federal entity reimburses the Secretary for the funds paid by the Secretary in accordance with the terms of the agreement.

(II) the non-Federal share shall be 20 percent.

(f) TIMING.—Except as provided in subparagraph (D), the non-Federal share shall be paid in accordance with a schedule established by the Secretary.

(i) takes into account the capability of the applicable non-Federal entities to pay; and

(ii) provides for full payment of the non-Federal share not later than 50 years after the date on which the Arkansas Valley Conduit is capable of delivering water.

(f) TRANSFER ON COMPLETION.—On completion of the Arkansas Valley Conduit, as certified by the Secretary in agreement with the lead non-Federal entity, the Secretary shall transfer ownership of the Arkansas Valley Conduit to the lead non-Federal entity.

(g) WATER RIGHTS.—Nothing in this Act affects any State water law or interstate compact.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

(b) LIMITATION.—Amounts made available under subsection (a) shall not be used for the operation or maintenance of the Arkansas Valley Conduit.

S. 1107. A bill to reauthorize the Head Start program for general

May 23, 2005

Mr. ENZI (for himself and Mr. KENNEDY):

S. 1107. A bill to reauthorize the Head Start Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to introduce the Head Start Act and help ensure that today’s children receiving services by this important program will be better prepared for success in the future. Success in life depends a great deal on the preparation for that success, which comes early in life. It is well documented in early research that students who are not reading well by the third grade will struggle with reading most of their lives. That is why the Head Start program is so important. Head Start provides early education for thousands of children each year, most of whom would not have the opportunity to attend preschool programs elsewhere.

The first change required by this program will be providing for all Head Start grantees found to have a deficiency to recompete the next time the program’s grant is up for renewal. The bill would also require grantees to recompete if they have not resolved issues of noncompliance within 120 days, or a longer time specified by the Secretary of Health and Human Services. This will create an incentive for programs to operate at their best, which is in the best interest of our children.

The bill would also shorten the timeline for programs to terminate. In some cases, Head Start grantees have been found to be operating programs that are unsafe, or improperly using Federal funds. In these cases, the Administration has acted to terminate these programs. Unfortunately, under the law, Head Start grantees have been able to appeal these rulings. This process can be lengthy, some examples exceed 600 days, or almost two years, before a final ruling is made. In order to address this issue, and put the health and education of children first, the legislation we introduce today would limit the time available for Head Start grantees to appeal decisions made by the Secretary to terminate grants.

A third improvement is to clarify the role of the governing body and policy councils in individual Head Start programs. After careful review, the Committee found that many of the important fiscal and legal responsibilities of Head Start grantees were not explicitly assigned to either the policy council or the governing body, or in many instances, were assigned equally to both. In order to clarify the shared governance model, the bill we introduce today would clarify the responsibilities of the governing body and the policy council for each Head Start grantee. We believe this will lead to more consistent, high quality fiscal and legal management, which will ensure these programs are serving children in the best way that they can.

I wish to thank my colleagues on the Committee, particularly Senator KENNEDY, for their help in drafting this bipartisan legislation to reauthorize the Head Start Act. I believe that the legislation we are introducing today will improve the quality and effectiveness of the Head Start program for generations of children to come.
I ask unanimous consent that a copy of the bill be printed in the Record, there being no objection, the bill was ordered to be printed in the Record, as follows:

SEC. 2. STATEMENT OF PURPOSE.

This Act may be cited as the "Head Start Improvements for School Readiness Act".

SEC. 3. DEFINITIONS.

Section 637 of the Head Start Act (42 U.S.C. 9832) is amended—

(1) in paragraph (2), by inserting "(including a community-based organization)" after "nonprofit";
(2) in paragraph (3)(C), by inserting "including financial literacy," after "Parent literacy";
(3) in paragraph (17), by striking "Mariana Islands," and all that follows and inserting "Mariana Islands;", and
(4) by adding at the end the following:

"(18) The term 'homeless child' means a child—
(A) who is enrolled or preparing to enroll in a Head Start program, Early Start program, or other early care and education program;
(B) who is a Native American, Alaska Native, or a resident of a United States territory; and
(C) whose difficulty in speaking or understanding the English language may be sufficient to deny such child—
(i) the opportunity to participate fully in society;
(ii) 20 percent of the amount appropriated under section 640(a) is amended—
(1) in paragraph (2)—
(A) by striking subparagraph (A) and inserting the following:
"(A) Indian Head Start programs, services for children with disabilities, and migrant and seasonal Head Start programs, except that—
(i) subject to the availability of appropriations, the Secretary shall reserve for each fiscal year for use by Indian Head Start and migrant and seasonal Head Start programs referred to in this subparagraph, an amount sufficient to enable the grant recipient to serve the same number of children on a nationwide basis, not less than the amount that was obligated for use by Indian Head Start programs and migrant and seasonal Head Start programs for that fiscal year;
(ii) after ensuring that each grant recipient for a covered program has received an amount sufficient to enable the grant recipients to serve the same number of children in Head Start programs as were served by such grant recipient on the date of enactment of the Head Start Improvements for School Readiness Act, taking into consideration an appropriate adjustment for inflation, and after allotting the funds reserved under paragraph (3)(A) as specified in paragraph (3)(D), the Secretary shall distribute the remaining funds available under this subparagraph for covered programs, by—
(I) distributing 65 percent of the remainder to providing effective program services to children and families;
“(VII) activities to provide training necessary to improve the qualifications of Head Start staff and to support staff training, child counseling, health services, and other services necessary to address the needs of children enrolled in Head Start programs, including children from families in crises, children who experience chronic violence or homogeneous children who experience substance abuse in their families, and children under 3 years of age, where applicable;”

“(VIII) activities to provide classes or in-service training for the enhancement of parenting skills, job skills, adult and family literacy, including financial literacy, or training classroom aide or bus driver in a Head Start program;”

“(IX) additional activities deemed appropriate to the improvement of Head Start agencies’ programs as determined by the agencies’ technical assistance and training plans; or

“(X) any other activities regarding the use of funds as determined by the Secretary.”

“(ii) 50 percent shall be made available to the Secretary to support a regional or State system of early childhood education training and technical assistance, and to assist local programs (including Indian Head Start programs and migrant and seasonal Head Start programs) in meeting the standards described in section 644(d)(1).”

“(iii) not less than $3,000,000 of the amount in clause (i) appropriated for such fiscal year shall be made available to carry out activities described in subparagraph (D), (E), and (F) in paragraph (3);”

“(C) in subparagraph (D), by striking “agencies” and all that follows and inserting “agencies);”

“(D) by adding at the end of the flush matter at the end the following: “The Secretary shall require each Head Start agency to report at the end of each budget year on how funds provided to carry out subparagraph (C)(i) were used.”

“(2) in paragraph (3)—

“(A) in subparagraph (A)(1)—

“(i) by striking “60 percent of such excess amount for fiscal year 1999” and all that follows through “2002,” and

“(ii) by inserting before the semicolon the following: “30 percent of such excess amount for fiscal year 2006, and 40 percent of such excess amount for each of fiscal years 2007 through 2010”;

“(B) in subparagraph (B)—

“(i) in clause (i), by striking “performance standards” and all that follows and inserting “standards and measures pursuant to section 644A(a);”

“(ii) by striking clause (ii) and inserting the following:

“(II) to help limited English proficient children attain the knowledge, skills, and development specified in section 641A(a)(1)(B)(ii) and to promote the acquisition of the English language by such children and families;”

“(IV) by striking subclause (IV) and inserting the following:

“(IV) to provide education and training necessary to improve the qualifications of Head Start staff, particularly to enable more instructors to be fully competent and to meet the degree requirements under section 648B(a)(4), and to support staff training, child counseling, and other services necessary to address the challenges of children participating in Head Start programs, including children from immigrant, refugee, and asylee families, children from families in crisis, homeless children, children in foster care, children referred to Head Start programs by welfare agencies, and children who are exposed to chronic violence or substance abuse;”

“(iii) in clause (iii), by inserting “, education staff who have the qualifications described in section 648A(a),” after “ratio”;

“(iv) in clause (v), by striking “programs,” including and all that follows and inserting “programs;”

“(v) by redesigning clause (vi) as clause (ix); and

“(vi) by inserting after clause (v) the following:

“(vi) To conduct outreach to homeless families in an effort to increase the program participation of eligible homeless children.”

“(C) In order to improve coordination and delivery of early education services to children in the State, a State that receives a grant under subparagraph (B) shall—
(i) appoint an individual to serve as the State Director of Head Start Collaboration;

(ii) ensure that the State Director of Head Start Collaboration holds a position with sufficient authority and access to ensure that the collaboration described in subparagraph (B) is effective and involves a range of State agencies; and

(iii) ensure that the State Head Start Association in the selection of the Director and involve the Association in determinations relating to the ongoing direction of the collaboration.

(D) The State Director of Head Start Collaboration, after consultation with the State Advisory Council described in subparagraph (E), shall—

(i) not later than 1 year after the date of enactment of the Head Start Improvement for School Readiness Act, conduct an assessment that—

(I) addresses the needs of Head Start agencies in the State with respect to collaborating on services, and implementing State early learning and school readiness goals and standards to better serve children enrolled in Head Start programs in the State;

(II) shall be updated on an annual basis; and

(III) shall be made available to the general public within the State;

(ii) assess the availability of high quality prekindergarten services for low-income children in the State;

(iii) develop a strategic plan that is based on the assessment described in clause (i) that will—

(I) enhance collaboration and coordination of Head Start services with other entities providing early childhood programs and services (such as child care and services offered by the health care, mental health care, welfare, child protective services, education and community services, family literacy services, reading readiness programs (including such programs offered by public and school libraries), services relating to children with disabilities, other early childhood programs and services for limited English proficient children and homeless children, and services provided for children in foster care and children referred to Head Start programs by child welfare agencies, including agencies and State officials responsible for such services;

(II) assist Head Start agencies to develop a plan for full year coverage of the State, full calendar year services for children enrolled in Head Start programs who need such care;

(III) assist Head Start agencies to align services with State early learning and school readiness goals and standards and to facilitate collaborative efforts to develop local school readiness standards; and

(IV) enable agencies in the State to better coordinate professional development opportunities for Head Start staff, such as by—

(aa) awarding grants to institutions of higher education to develop articulation agreements;

(bb) awarding grants to institutions of higher education to develop model early childhood education programs, including practica or internships for students to spend time in a Head Start or prekindergarten program;

(cc) working with local Head Start agencies to meet the degree requirements described in section 686A(a)(2)(A), including providing training opportunities for Head Start staff, where needed to make higher education more accessible to Head Start staff; and

(dd) enabling the State Head Start agencies to better coordinate outreach to eligible families;

(iv) promote partnerships between Head Start agencies, State governments, and the private sector to help ensure that preschool children from low-income families are receiving comprehensive services to prepare the children to enter school ready to learn;

(v) consult with the chief State school officer, local educational agencies, and providers of child care to conduct unified planning regarding early care and education services at both the State and local levels, including undertaking collaborative efforts to develop and make improvements in school readiness standards;

(vi) promote partnerships (such as the partnerships involved with the Free to Grow initiative) between Head Start agencies, schools, law enforcement, and substance abuse and mental health treatment agencies to strengthen family and community environments and to reduce the impact on child development of substance abuse, child abuse, domestic violence, and other high risk behaviors that compromise healthy development.

(vii) promote partnerships between Head Start agencies and other organizations in order to enhance the Head Start curriculum, including encouraging partnerships to include the placement of more books in Head Start classrooms and partnerships to promote coordination of activities with the Ready-to-Learn Television program described in part D of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6775 et seq.); and

(viii) identify other resources and organizations (both public and private) for the provision of in-kind services to Head Start agencies in the State.

(Ed) The Governor may designate an existing entity to serve as the State Advisory council on collaboration on early care and education activities for children from birth to school entry (in this subchapter referred to as the ‘‘State Advisory Council’’). The Governor shall include, to the maximum extent possible—

(D) the State Director of Head Start Collaboration;

(I) a representative of the appropriate regional office of the Administration for Children and Families;

(II) a representative of the State education agency and local educational agencies;

(III) a representative of institutions of higher education;

(IV) a representative (or representatives) of the State agency (or agencies) responsible for health or mental health care;

(V) a representative of the State agency responsible for teacher professional standards, certification, and licensing, including prekindergarten teacher professional standards, certification standards, certification, and licensing, where applicable;

(VI) a representative of the State agency responsible for child care;

(VII) a representative of the State early childhood education professionals, including professionals with expertise in second language acquisition and instructional strategies in teaching limited English proficient children described in paragraph (2);

(VIII) kindergarten teachers and teachers in grades 1 through 3;

(X) health care professionals;

(XI) child development specialists, including specialists in prenatal, infant, and toddler development;

(XII) a representative of the State agency responsible for assisting children with developmental disabilities;

(XIII) a representative of the State agency responsible for programs under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.);

(XIV) a representative of the State interagency coordinating council established under section 611 of the Individuals with Disabilities Education Act (20 U.S.C. 1411);

(XV) a representative of the State Head Start Association (where appropriate), and other representatives of Head Start programs in the State;

(XVI) a representative of the State network of child care resource and referral agencies;

(XVII) a representative of community-based organizations;

(XVIII) a representative of State and local providers of early childhood education and child care;

(XIX) a representative of migratory and seasonal Head Start programs and Indian Head Start programs (where appropriate);

(XX) parents;

(XXI) religious and business leaders;

(XXII) the head of the State library administrative agency;

(XXIII) representatives of State and local organizations and other entities providing services relating to children with disabilities, including special education services and developmental disabilities Education Act (20 U.S.C. 1400 et seq.); and

(XXIV) a representative of other entities determined to be relevant by the chief executive officer of the State—

(aa) conducting a periodic statewide needs assessment concerning early care and education programs for children from birth to school entry;

(bb) identifying barriers to, and opportunities for, collaboration and coordination between entities carrying out Federal and State child development, child care, and early childhood education programs;

(cc) developing recommendations regarding means of establishing a unified data collection system for early care and education programs throughout the State;

(dd) developing a statewide professional development and career ladder plan, including coordination of activities approved for fiscal years 2007, 2008, and 2009;

(ee) reviewing and approving the strategic plan, regarding collaborating and coordinating services to better serve children enrolled in Head Start programs, developed by the State Director of Head Start Collaboration under subparagraph (D)(iii).

(Ed) The State Advisory Council shall hold public hearings and provide an opportunity for public comment on the needs assessment and recommendations described in paragraph (B) and that are sent to the State Director of Head Start Collaboration and the chief executive officer of the State.

(E) by striking subparagraph (B);

(F) by striking subparagraph (C) and inserting '‘(C) the State Advisory Council shall meet periodically to review any implementation of the recommendations described in paragraph (B), including changes in State and local needs.’’; and

(G) in paragraph (6)—

(A) in subparagraph (A), by striking ‘‘7.5 percent’’ and all that follows and inserting ‘‘11 percent for fiscal year 2006, 13 percent for fiscal year 2007, 15 percent for fiscal year 2008, 17 percent for fiscal year 2009, and 18 percent for fiscal year 2010, of the amount determined to be relevant by the chief executive officer of the State—’’;

(B) by striking subparagraph (B);
(C) in subparagraph (C)(i), by striking "required to be"; and
(D) by redesignating subparagraph (C) as subparagraph (B).

**DELIVERY MODELS.—**Section 640(b) of the Head Start Act (42 U.S.C. 9835(b)(i)) is amended by striking "needs" and inserting "needs, including—"

"(1) models that leverage the capacity and capabilities of the delivery system of early childhood education and child care; and"

"(2) procedures to provide for the conversion of Head Start programs to full-day programs or part-day slots to full-day slots.".

(c) **ADDITIONAL FUNDS.—**Section 640(g)(2) of the Head Start Act (42 U.S.C. 9835(g)(2)) is amended—

(1) by striking subparagraph (C) and inserting the following:

"(C) the extent to which the applicant has undertaken communitywide strategic planning and needs assessments involving other community organizations and Federal, State, and local public agencies serving children and families (including organizations and agencies providing family support services and protective services to children and families, services delivering services of such families in whose homes English is not the language customarily spoken), and individuals, organizations, and public entities serving children who are in foster care—

and homeless children including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii));"

(2) in subparagraph (D), by striking "other local and" inserting "the State and local; and"

(3) in subparagraph (E), by inserting "would like to participate but" after "community who;"

(4) in subparagraph (G), by inserting "leveraging the existing delivery system of such services and" after "manner that will;" and

(5) in subparagraph (H), by inserting ", including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii))," after "community involved".

(d) **REGULATIONS.—**Section 640(b) of the Head Start Act (42 U.S.C. 9835(b)) is amended by inserting "and requirements to ensure the appropriate and unbiased checks of individuals with whom the agencies contract to transport those children to the Federal monitoring review;" before the period.

(e) **GRANT AND SEASONAL START Programs.—**Section 640(c) of the Head Start Act (42 U.S.C. 9835(c)) is amended by striking paragraph (3) and inserting the following:

"(3) GRANT AND SEASONAL START Programs.—The Secretary shall demonstrate that the entity has met or controlled structure to facilitate these responses for local public schools."

(f) **HOMELESS CHILDREN.—**Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end the following:

"(m) **ENROLLMENT OF HOMELESS CHILDREN.—**The Secretary shall ensure that, in the event of a program, such regulations, including the performance standards described in section 641A, as well as applicable State, Tribal, and local laws and regulations, including laws defining the nature and operations of the governing body.

(1) that fully participates in the development, planning, implementation, and evaluation of the programs to ensure the operation of programs of high quality standards of

(2) ensuring compliance with laws—

The funding body shall be responsible for ensuring compliance with Federal laws and regulations, including the performance standards described in section 641A, as well as applicable State, Tribal, and local laws and regulations, including laws defining the nature and operations of the governing body.

(2) in general.—The governing body shall be compiled as follows:

(I) not less than 1 member of the governing body shall have a background in early childhood development;

(II) not less than 1 member of the governing body shall have a background in early childhood development;

(III) not less than 1 member of the governing body shall have a background in early childhood development;

(iv) **COMPOSITION OF GOVERNING BODY.—**The governing body shall be responsible, in consultation with the policy council or the policy committee of the Head Start agency, for:

(1) the selection of the designating agencies and such agencies' service areas;

(II) establishing criteria for designating agencies; and

(III) all funding applications and amendments to funding applications for programs under this subchapter.

(v) **RESPONSIBILITIES.—**The governing body shall be responsible, in consultation with the policy council or the policy committee of the Head Start agency, for:

(A) developing and administering the assessment of the Head Start agency or designee's progress in carrying out the programmatic and fiscal intent of such agency's grant application, including any other actions that may result from the review of the annual audit, self-assessment, and findings from the Federal monitoring review;

(B) the composition of the policy council or the policy committee of the Head Start agency and the procedures by which group members are chosen;

(C) audits, accounting, and reporting;

(D) personnel policies and procedures including policies with regard to salary scales (and changes made to the scale), salary reviews, and the Executive Director, the Director of Human Resources, and the Chief Fiscal Officer, and decisions to hire and terminate program staff; and

(vi) **CONDUCT OF RESPONSIBILITIES.—**The governing body shall be responsible for facilitating the responsibilities in order to:

(1) safeguard Federal funds;

(2) comply with laws and regulations that affect the impact of grant programs; and

(III) detect or prevent noncompliance with this subchapter; and
“(IV) receive audit reports and direct and monitor staff implementation of corrective actions;

“(D) RECEIPT OF INFORMATION.—To facilitate coordination of a Head Start agency’s accountability, the governing body shall receive regular and accurate information about program planning, policies, and Head Start classroom operations, including—

“(i) monthly financial statements (including detailed credit card account expenditures for any employee with a Head Start agency credit card or who seeks reimbursement for charged expenses);

“(ii) monthly program information summaries;

“(iii) program enrollment reports, including attendance reports for children whose care is partially subsidized by another public agency;

“(IV) monthly report of meals and snacks through programs of the Department of Agriculture;

“(V) the annual financial audit;

“(VI) the annual self-assessment, including any findings related to the annual self-assessment;

“(VII) the community assessment of the Head Start agency’s service area and any applicable updates; and

“(VIII) the program information reports.

“(E) TRAINING AND TECHNICAL ASSISTANCE.—(1) Training and technical assistance shall be provided to the members of the governing body to ensure that the members understand the information the members receive and can effectively oversee and participate in the programs of the Head Start agency.

“(2) Community.—For purposes of this subsection, a community may be a city, county, or multicity or multicounty unit within a State, an Indian reservation (including reservations in any off-reservation area designated by an appropriate tribal government in consultation with the Secretary), or a neighborhood or other area (irrespective of boundaries or political subdivisions) that provides a suitable organizational base and possesses the commonality of interest needed to operate a Head Start program.

“(c) Priority in Designation.—In administering the provisions of this section, the Secretary shall, in consultation with the chief of the State or local social services agency (as hereinafter defined), give priority in the designation (including redesignation) of Head Start agencies to any high-performing Head Start agency or delegating agency that—

“(1) is receiving assistance under this subchapter;

“(2) meets or exceeds program and financial management requirements or standards described in section 611a(d)(1);

“(3) has no unresolved deficiencies and has not had findings of deficiencies during the last triennial review under section 611a(c);

“(4) can demonstrate, through agreements such as memoranda of understanding, active collaboration with the State or local social services agency (as hereinafter defined), that it possesses the commonality of interest needed to operate a Head Start program.

“(d) Designation When Entity Has Priority.—If no entity in a community is entitled to receive assistance under this subchapter, the Secretary shall, after conducting an open competition, designate a Head Start agency from among qualified applicants in such community.

“(c) Rule of Construction.—Notwithstanding any other provision of law, under no condition may a non-Indian Head Start agency receive a grant to carry out an Indian Head Start program.

“(f) Effectiveness.—In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall consider the effectiveness of such applicant to provide Head Start services, based on—

“(1) any past performance of such applicant in programs comparable to Head Start services, including how effectively such applicant provided such comparable services;

“(2) the plan of such applicant to provide comprehensive health, educational, nutritional, social, and other services needed to aid participating children in attaining their full potential and to prepare children to succeed in school;

“(3) the capacity of such applicant to serve eligible children with programs that use scientifically based research that promotes high school readiness of children participating in the program;

“(4) the plan of such applicant to meet standards set forth in section 641a(a)(1), with particular attention to the standards set forth in subparagraphs (A) and (B) of such section;

“(5) the plan of such applicant to coordinate the Head Start program and the applicant proposes to carry out with other preschool programs, including—

“(A) the Early Reading First and Even Start programs under subparts 2 and 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6731 et seq., 6381 et seq.);

“(B) programs under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1411 et seq.);

“(C) State prekindergarten programs;

“(D) child care programs;

“(E) the educational programs that the children in the program involve in the Head Start program will enter at the age of compulsory school attendance; and

“(F) reading readiness programs such as those conducted by public and school libraries;

“(6) the plan of such applicant to coordinate the Head Start program that the applicant proposes to carry out with public and private entities who are willing to commit resources to assist the Head Start program in meeting its goals;

“(7) the plan of such applicant to collaborate with a local library, where available, that is interested in that collaboration, to—

“(A) develop programs to excite children about the world of books, such as programs that involve—

“(i) taking children to the library for a story hour;

“(ii) promoting the use of library cards; and

“(iii) developing a lending library or using a mobile library van; and

“(B) provide books in the Head Start classroom on a regular basis;

“(8) the plan of such applicant to meet the needs of families of limited English proficient children and their families, including procedures to identify such children, plans to provide translation and/or interpretation services to assist the children in making progress toward the acquisition of the English language;

“(9) the ability of such applicant to carry out the plans described in paragraphs (2), (4), and (5);

“(10) other factors related to the requirement of this subchapter;

“(11) the plan of such applicant to meet the needs of home-based care programs and child care programs in the community; and

“(12) the plan of such applicant to meet the needs of children with disabilities;

“(13) the plan of such applicant who chooses to assist siblings of children who will participate in the Head Start program, to obtain health services from other sources;

“(14) the plan of such applicant to collaborate with other entities carrying out early childhood education and child care programs in the community;

“(15) the plan of such applicant to meet the needs of homeless children and children in foster care, including the transportation needs of such children; and

“(16) the plan of such applicant to recruit and retain qualified applicants and area residents who are affected by programs under this subchapter in the selection of personnel, including such factors as—

“(C) INTERIM BASIS.—If there is not a qualified applicant in a community for designation as a Head Start agency, the Secretary shall designate a community to carry out the Head Start program in the community on an interim basis until a qualified applicant from the community is so designated.

“(h) Involvement of Parents and Area Residents.—The Secretary shall continue to participate in the development and training (to the extent available), including through providing transportation costs, to—

“(1) to offer (directly or through referral to local entities) to such parents—

“(A) family literacy services; and

“(16) the plan of such applicant to meet the needs of limited English proficient children and their families, including procedures to identify such children, plans to provide translation and/or interpretation services to assist the children in making progress toward the acquisition of the English language;

“(9) the ability of such applicant to carry out the plans described in paragraphs (2), (4), and (5);
qualified applicants for designation as Head Start agencies.

“(i) PRIORITY.—In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall give priority to applicants that have demonstrated capacity in providing effective, comprehensive, and well-coordinated early childhood services to children and their families.”

SEC. 8. QUALITY STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS

Section 641A of the Head Start Act (42 U.S.C. 9836a) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “section 642(c)” and inserting “section 642(c)”; and

(B) in paragraph (1)(B)—

(i) in clause (i), by striking “education performance standards” and inserting “educational performance standards”;

(ii) by striking clause (ii) and inserting the following:

“(ii) additional educational standards based on the recommendations of the National Academy of Sciences panel described in section 640(h) and other experts in the field, to ensure that the curriculum involved addresses the children participating in the program show appropriate progress toward developing and applying, the recommended educational outcomes, after the periods of expressing feeder educational standards relating to—

(I) language skills related to listening, understanding, speaking, and communicating, including—

(aa) understanding and use of a diverse vocabulary (including words in the name of colors and knowledge of how to use oral language to communicate for various purposes);

(bb) narrative abilities used, for example, to comprehend, tell, and respond to a story, or to comprehend instructions;

(cc) ability to detect and produce sounds of the language the child speaks or is learning; and

(dd) clarity of pronunciation and speaking in syntactically and grammatically correct sentences;

(II) prereading knowledge and skills, including—

(aa) alphabet knowledge including knowing the letter names and associating letters with the sounds they represent in the context of words, and knowledge of how to write;

(bb) phonological awareness and processes that support reading, for example, rhyming, recognizing words with the same and separate syllables in spoken, and putting speech sounds together to make words;

(cc) knowledge, interest in, and appreciation of books, reading, and writing (either alone or with others), and knowledge that books have parts such as the front, back, and title page;

(dd) early writing, including the ability to write one’s own name and other words and phrases; and

(ee) print awareness and concepts, including recognizing different forms of print and understanding the association between spoken and written words;

(III) premathematics knowledge and skills, including—

(aa) number recognition;

(bb) use of early number concepts and operations, including counting, simple addition and subtraction, and knowledge of quantitative relationships, such as part versus whole and comparison of numbers of objects;

(cc) use of early space and location concepts, including—recognizing shapes, classification, stration, and understanding directionality; and

(dd) early pattern skills and measurement, including recognizing and extending simple patterns and measuring length, weight, and time;

(IV) scientific abilities, including—

(aa) building awareness about scientific skills and methods, such as gathering, describing, and recording information, making observations, and making explanations and predictions; and

(bb) expanding scientific knowledge of the environment, time, temperature, and cause-effect relationships;

(V) general cognitive abilities related to academic achievement and child development, including—

(aa) reasoning, planning, and problem-solving skills;

(bb) ability to engage, sustain attention, and persist on challenging tasks;

(cc) intellectual curiosity, initiative, and task engagement; and

(dd) motivation to achieve and master concepts and skills;

(VI) social and emotional development related to early learning and school success, including developing—

(aa) the ability to develop social relationships, demonstrate cooperative behaviors, and relate to teachers and peers in positive and respectful ways;

(bb) an understanding of the consequences of actions, following rules, and appropriately expressing feelings;

(cc) a sense of self, such as self-awareness, independence, and confidence;

(dd) the ability to control negative behaviors with teachers and peers that include impulsiveness, aggression, and noncompliance; and

(VII) physical development, including developing—

(aa) fine motor skills, such as strength, manual dexterity, and fine-eye coordination;

(bb) gross motor skills, such as balance, and coordinated movements; and

(VIII) in the case of limited English proficient children, progress toward acquisition of the English language while making meaningful progress in attaining the skills, abilities, and development described in subclauses (I) through (VII);”;

(C) in paragraph (1)(D), by striking “projects; and” and inserting “projects, in subclauses (I) through (VII);”;

(D) in paragraph (2) —

(i) in subparagraph (B)—

(I) in clause (i), by striking “the date of enactment of the Head Start Improvements for School Readiness Act”;

(II) in clause (ii), by striking “the date of enactment of the Head Start Improvements for School Readiness Act”;

(III) in clause (vi), by striking “;” and “and” and inserting “or”;

(IV) in clause (vii), by striking “public schools” and inserting “the schools that the children will be attending”; and

(V) by adding at the end the following:

“(VIII) the unique challenges faced by individual programs, including those programs that are seasonal or short term and those programs that serve rural populations; and”;

(ii) in subparagraph (C)(i), by striking “the date of enactment of the Coats Human Services Reauthorization Act of 1998” and inserting “the date of enactment of the Head Start Improvements for School Readiness Act”; and

(iii) by adding at the end the following:

“(D) consult with Indian tribes, American Indian and Alaska Native experts in early childhood development, linguists, and the National Indian Head Start Directors Association on the review and promulgation of program standards and measures (including standards and measures for language acquisition and school readiness).”;

(E) by adding at the end the following:

“(4) EVALUATIONS AND CORRECTIVE ACTIONS FOR DELEGATE AGENCIES.—

(A) PROCEDURES.—

(i) shall evaluate its delegate agencies using the procedures established pursuant to this section, including subparagraph (A); and

(ii) shall inform the delegate agencies of the deficiencies identified through the evaluation that shall be corrected.

(C) REMEDIES TO ENSURE CORRECTIVE ACTIONS.—In the event that the Head Start agency identifies a deficiency for a delegate agency through the evaluation, the Head Start agency may—

(i) initiate procedures to terminate the designation of the agency unless the agency corrects the deficiency;

(ii) conduct monthly monitoring visits to such delegate agency until all deficiencies are corrected or the Head Start agency decides to defund such delegate agency; and

(iii) release funds to such delegate agency only as reimbursements until all deficiencies are corrected or the Head Start agency decides to defund such delegate agency.

(D) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to impact or abate the responsibilities for a delegate agency for the Secretary with respect to Head Start agencies or delegate agencies receiving funding under this subchapter.”;

(2) in subsection (b)—

(A) in paragraph (2) —

(i) by striking the paragraph heading and inserting the following:

“(2) CHARACTERISTICS AND USE OF MEASURES.—

(i) in subparagraph (B)—

(ii) in subparagraph (B), by striking “;” and inserting a semicolon;

(iii) in subparagraph (C), by striking the period and inserting a semicolon;

(iv) by striking the flush matter following subparagraph (C); and

(v) by adding at the end the following:

“(E) measure characteristics that are strongly predictive (as determined on a scientific basis) of a child’s school readiness and performance in school; and

(F) be appropriate for the population served; and

(G) measure characteristics that are strongly predictive (as determined on a scientific basis) of a child’s school readiness and performance in school; and

(H) be appropriate for the population served; and

(i) in paragraph (3)(A)—

(ii) in subparagraph (A), by striking “and” and inserting “,”; and

(iii) by adding at the end the following:

“(ii) shall be accessible by State and local authorities for purposes of monitoring and ensuring compliance with the procedures established pursuant to this section, including subparagraph (A); and

(iv) in subparagraph (B)—

(I) shall be accessible by State and local authorities for purposes of monitoring and ensuring compliance with the procedures established pursuant to this section, including subparagraph (A); and

(ii) conduct monthly monitoring visits to such delegate agency until all deficiencies are corrected or the Head Start agency decides to defund such delegate agency.

(iii) release funds to such delegate agency only as reimbursements until all deficiencies are corrected or the Head Start agency decides to defund such delegate agency.

(iv) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to impact or abate the responsibilities for a delegate agency for the Secretary with respect to Head Start agencies or delegate agencies receiving funding under this subchapter.”;
“(F) be reviewed not less than every 4 years, based on advances in the science of early childhood development.

The performance measures shall include the performance standards and additional education standards described in subparagraphs (A) and (B) of subsection (a)(1);”;

(ii) in subparagraph (B), by striking the period and inserting “; and”;

(iii) by adding at the end the following:

“(C) Start agencies to individualize programs of instruction to better meet the needs of the child involved.”;

(b) in paragraph (4) and inserting the following:

“(4) RESULT-BASED OUTCOMES.—Results-based outcome measures shall be designed for the purpose of promoting the knowledge, skills, abilities, and development, described in subsection (a)(1)(B)(ii), of children participating in Head Start programs that are strongly predictive (as determined on a scientific basis) of a child’s school readiness and later performance in school;” and

(c) by striking paragraph (5) and inserting the following:

“(5) ADDITIONAL LOCAL RESULTS-BASED EDUCATIONAL MEASURES AND GOALS.—Head Start agencies may establish and implement additional local results-based educational measures and goals.”;

(2) CONDUCT OF REVIEWS.—The Secretary shall—

(i) prompt return visits to agencies, programs, and centers that fail to meet 1 or more of the performance measures developed by the agency described in subparagraph (A);

(ii) a review of programs with citations that include findings of deficiencies not later than 6 months after the date of such citation;

(iii) by striking subparagraph (A), by inserting “and Head Start centers” after “Head Start programs”;

(iv) by redesignating subparagraph (D) as subparagraph (C) and inserting the following:

“(C) include as part of the reviews of the programs, a review and assessment of whether programs have adequately addressed the population and community needs (including needs of populations of limited English proficient children and children of migrant and seasonal farmworking families); and

(v) by inserting after subparagraph (C) and inserting the following:

“(1) SELF-ASSESSMENTS.—

(A) REPORT.—An agency conducting a self-assessment shall report the findings of the self-assessment to the governing body of the agency to be used in the improvement of the programs work toward meeting program goals and objectives and Head Start performance standards.

(B) IMPROVEMENT PLAN.—The agency shall develop an improvement plan approved by the governing body of the agency to strengthen any areas identified in the self-assessment as weaknesses or in need of improvement.

(C) ON-GOING MONITORING.—Each Head Start agency, Early Head Start agency, and delegate agency shall establish and implement procedures for the ongoing monitoring of the Head Start program, or migrant and seasonal Head Start program, to ensure that the operations of the programs work toward meeting program goals and objectives and Head Start performance standards.

(D) TRAINING AND TECHNICAL ASSISTANCE.—Funds may be made available, through section 645(c)(1), for training and technical assistance to assist agencies in conducting self-assessments.

(3) REJECTION OF GRANTS AND REDUCTION OF FUNDS IN CASES OF UNDER-ENROLLMENT.—

(i) DEFINITIONS.—In this subsection:

(A) ACTUAL ENROLLMENT.—The term ‘actual enrollment’ means, with respect to the program of a Head Start agency, the actual number of children enrolled in such program as reported by the agency pursuant to paragraph (2) in a given month.

(B) BASE GRANT.—The term ‘base grant’ means, with respect to a Head Start agency for a fiscal year, that portion of the grant derived—

(i) from amounts reserved for use in accordance with section 640a(2)(A), for a Head Start program or migrant and seasonal Head Start program;

(ii) from amounts reserved for payments under section 640a(2)(B); or

(iii) from amounts available under section 640a(2)(D) or allotted among States under section 640a(4).

(C) FUNDED ENROLLMENT.—The term ‘funded enrollment’ means, with respect to the program of a Head Start agency in a fiscal year, the number of children that the agency is funded to serve through a grant for the program during such fiscal year, as indicated in the grant agreement.

(D) ENROLLMENT REPORTING REQUIREMENT FOR CURRENT FISCAL YEAR.—Each entity carrying out a Head Start program shall report on a monthly basis to the Secretary and the relevant Head Start agency—

(A) the actual enrollment in such program; and

(B) if such actual enrollment is less than the funded enrollment, any apparent reason for such enrollment shortfall.

(4) SECRETARIAL REVIEW AND PLAN.—The Secretary shall—

(A) on a semiannual basis, determine which Head Start agencies are operating with an actual enrollment that is less than the funded enrollment and for not less than 4 consecutive months of data;

(B) for each such Head Start agency operating a program with an actual enrollment that is less than the funded enrollment, as determined under subparagraph (A), develop, in collaboration with such agency, a plan and timetable for reducing or eliminating under-enrollment taking into consideration—

(i) the quality and extent of the outreach, recruitment, and community needs assessment conducted by such agency;

(ii) changing demographics, mobility of populations, and the identification of new underserved low-income populations;

(iii) facilities-related issues that may impact enrollment;

(iv) the ability to provide full-day programs, where needed, through Start funds or through collaboration with entities carrying out other preschool or child care programs, or programs with other funding sources (where available);

(v) availability and use by families of other preschool and child care options (including parental care) in the local catchment area; and

(vi) agency management procedures that may impact enrollment;

(vii) the availability of facilities and the identification of new underserved low-income populations;

(a) in subparagraph (B), by inserting ‘and’;

(b) by striking paragraph (4) and inserting the following:

“(4) RESULTS-BASED AND ACTIONABLE INDICATORS OF ACHIEVEMENT.—The Secretary shall ensure that the self-assessment includes an analysis of the results-based performance measures developed by the Secretary pursuant
“(4) IMPLEMENTATION.—Upon receipt of the technical assistance described in paragraph (3)(C), a Head Start agency shall immediately implement the plan described in paragraph (3)(C) for such agency.

“(5) SECRETARIAL ACTION FOR CONTINUED UNDER-ENROLLMENT.—If, 1 year after the date of implementation of the plan described in paragraph (3)(C), the Head Start agency continues to operate a program at less than full enrollment, the Secretary shall, where determined appropriate, continue to provide technical assistance to such agency.

“(6) SECRETARIAL REVIEW AND ADJUSTMENT FOR CHRONIC UNDER-ENROLLMENT.—

“(A) IN GENERAL.—If, after receiving technical assistance and developing and implementing a plan to the extent described in paragraphs (3), (4), and (5) for 9 months, a Head Start agency is still operating a program with an actual enrollment that is less than 95 percent of its funded enrollment, the Secretary may:

“(i) designate such agency as chronically under-enrolled; and

“(ii) recapture, withhold, or reduce the base grant for the program by a percentage equal to the percentage difference between

—funded enrollment and actual enrollment for the program for the most recent year in which the agency is determined to be under-enrolled; or

—other previous year enrollment.

“(B) WAIVER OR LIMITATION OF REDUCTIONS.—If the Secretary, after the implementation of the plan described in paragraph (3)(B), finds that:

“(i) the causes of the enrollment shortfall, or a portion of the shortfall, are beyond the agency’s control (such as serving significant numbers of migrant or seasonal farmworker, homeless, foster, or other highly mobile children);

“(ii) the shortfall can reasonably be expected to be temporary; or

“(iii) the number of slots allotted to the agency is small enough that under-enrollment does not constitute a significant shortfall, the Secretary may, as appropriate, waive or reduce the percentage recapturing, withholding, or reduction otherwise required by subparagraph (A).

“(C) PROCEDURAL REQUIREMENTS; EFFECTIVE DATE.—The actions taken by the Secretary under this paragraph with respect to a Head Start agency shall take effect 1 day after the date on which:

“(i) the time allowed for appeal under section 641A(c) expires without an appeal by the agency; or

“(ii) the action is upheld in an administrative appeal under section 646.

“(D) USE OF FUNDS.

“(A) IN GENERAL.—The Secretary shall use amounts recovered from a Head Start agency through recapturing, withholding, or reduction otherwise required by subparagraph (A) to

“(i) support Head Start programs serving the same special population; and

“(ii) demonstrate that the agencies will use such redirected funds to increase enrollment in their Head Start programs in each fiscal year;

“(iii) in the case of a Head Start agency administering an Indian Head Start program or a migrant and seasonal Head Start program, whose enrollment is derived from amounts specified in paragraph (1)(C)(i), to redirect funds to 1 or more agencies that—

“(a) are administering Head Start programs serving the same special population; and

“(B) Special Rule.—If there is no agency located in a State that meets the requirements of subclauses (I) and (II) of subparagraph (A)(ii), the Secretary shall use the funds described in subparagraph (A) to redirect funds to Head Start agencies located in other States that make the demonstration described in subparagraph (A)(i)(II).

“(4) AMOUNT OF BONUS GRANT.—The Secretary shall adjust as necessary the requirements relating to funded enrollment indicated in the grant agreement of a Head Start agency receiving redistributied amounts under this paragraph.

“SEC. 9. CENTERS OF EXCELLENCE IN EARLY CHILDHOOD

The Head Start Program is amended by inserting after section 641A (42 U.S.C. 9836a) the following:

“SEC. 641B. CENTERS OF EXCELLENCE IN EARLY CHILDHOOD.

“(a) DEFINITION.—In this section, the term ‘center of excellence’ means a Center of Excellence in Early Childhood designated under subsection (b).

“(b) DESIGNATION AND BONUS GRANTS.—The Secretary shall, subject to the availability of funds under this subchapter, including under subsection (f), establish a program under which the Secretary shall:

“(i) designate not more than 200 exemplary Head Start agencies (including Early Head Start agencies, Indian Head Start agencies, migrant and seasonal Head Start agencies) as Centers of Excellence in Early Childhood; and

“(ii) make bonus grants to the centers of excellence to carry out the activities described in subsection (d).

“(c) APPLICATION AND DESIGNATION.—

“(1) APPLICATION.—

“(A) NOMINATION AND SUBMISSION.—

“(i) IN GENERAL.—To be eligible to receive a designation as a center of excellence under subsection (b), an agency may apply as provided in paragraph (ii), a Head Start agency in a State shall be nominated by the Governor of the State and shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(ii) INDIAN AND MIGRANT AND SEASONAL HEAD START.—In the case of an Indian Head Start agency or a migrant or seasonal Head Start agency, to be eligible to receive a designation as a center of excellence under subsection (b), the agency shall be nominated by the Governor of the State and shall submit an application to the Secretary in accordance with clause (i).

“(d) CONTENTS.—At a minimum, the application shall include:

“(1) evidence that the Head Start program carried out by the agency has significantly improved the school readiness of, and enhanced academic outcomes for, children who have participated in the Head Start program or in an Early Head Start program, as defined in section (b), a Head Start agency in a State shall be designated by the Secretary in accordance with clause (i).

“(ii) evidence that the program meets or exceeds standards and performance measures described in subsection (a) and (b) of section 641A, as evidenced by successful completion of programmatic and monitoring reviews, and has no findings of deficiencies with respect to the standards and measures;

“(iii) evidence that the program is making progress toward meeting the requirements described in section 68A;

“(iv) evidence demonstrating the existence of a collaborative partnership among the Head Start agency, the State (or a State agency), and other early care and education providers in the local community involved;

“(v) a nomination letter from the Governor, or appropriate regional office, demonstrating the agency’s ability to carry out the coordination, transition, and training services of the program to be carried out under the bonus grant involved, including coordination of activities with State and local agencies and other service providers for children and families in the community served by the agency;

“(vi) information demonstrating the existence of a collaborative local council for excellence in early childhood, which shall include representatives of all the institutions, agencies, and groups involved in the work of the center for excellence (including, wherever applicable, eligible children and other at-risk children, and their families; and

“(vii) a description of how the Center, in order to expand accessibility and continuity of quality early care and education, will coordinate the early care and education activities described in this section with—

“(I) programs carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9861 et seq.);

“(II) other programs carried out under this subchapter, including the Early Head Start programs carried out under section 645A;

“(III) Early Head Start programs carried out under paragraph 2 of part D of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371 et seq., 6381 et seq.); and

“(IV) programs carried out under title II of that Act (20 U.S.C. 6751 et seq.); and

“(V) the Ready-to-Learn Television program carried out under part subpart 3 of part D of title II of that Act (20 U.S.C. 6757 et seq.);

“(VI) programs carried out under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.);

“(VII) State prekindergarten programs; and

“(VIII) other early care and education programs.

“(2) SELECTION.—In selecting agencies to designate as centers of excellence under subsection (b), the Secretary shall designate not less than 1 from each of the 50 States, the District of Columbia, an Indian Head Start program, a migrant and seasonal Head Start program, and the Commonwealth of Puerto Rico.

“(3) TERM OF DESIGNATION.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall designate a Head Start agency as a center of excellence for a 5-year term.

“(B) REVOCATION.—The Secretary may revoke an agency’s designation under subsection (b) if the Secretary determines that the agency is not demonstrating adequate performance or has had findings of deficiencies described in paragraph (1)(B)(ii).

“(d) AMOUNT OF BONUS GRANT.—The Secretary shall base the amount of funding provided through a bonus grant made under subsection (b) to a center of excellence on the number of Head Start slots and the number of service type(s) in the community involved. The Secretary shall, subject to the availability of funding, make such a bonus grant in an amount of not less than $200,000 per year.

“(d) USE OF FUNDS.—

“(1) ACTIVITIES.—A center of excellence that receives a bonus grant under subsection (b) shall use the funds made available through the bonus grant—

“(A) to provide Head Start services to additional eligible children;

“(B) to better meet the needs of working families in the community served by the center by serving more children in existing Early Head Start programs (existing as of the date the center is designated under this section) or in full-working-day, full calendar year Head Start programs;
“(C) to model and disseminate best practices for achieving early academic success, including achieving school readiness and developing prereading and premathematics skills and achieve the acquisition of the English language for limited English proficient children, and to provide seamless service delivery for eligible children and their families; and

“(D) to further coordinate early childhood and social services available in the community served by the center for at-risk children (birth to age 8), their families, and pregnant women;

“(E) to provide training and cross training for Head Start teachers, staff, other providers, public and private preschool and elementary school teachers, and other providers of early childhood services, and training and cross training to develop agency leaders;

“(F) to provide effective transitions between Head Start programs and elementary school, to facilitate ongoing communication between Head Start and elementary school teachers concerning children receiving Head Start services, and to provide training and technical assistance to providers who work public elementary school teachers and other staff of local educational agencies, child care providers, family service providers, and other providers of early childhood services; and to help the providers described in this subparagraph increase their ability to work with low-income, at-risk children and their families;

“(G) to develop or maintain partnerships with institutions of higher education and nonprofit organizations, including community-based organizations, that recruit, train, place, and support college students to serve as mentors and reading coaches to preschool children in Head Start programs; and

“(H) to carry out other activities determined by the center to improve the overall quality of the Head Start program carried out by the agency and the program carried out under the bonus grant involved.

“(2) INVOLVEMENT OF OTHER HEAD START AGENCIES AND PROVIDERS.—A center that receives a bonus grant under subsection (b), in carrying out activities under this subsection, shall work with the center’s delegate agencies, several additional Head Start agencies, and other providers of early childhood services in the community involved, to encourage the agencies and providers described in this sentence to carry out model programs.

“(e) IN GENERAL.—

“(1) RESEARCH.—The Secretary shall, subject to the availability of funds to carry out this subsection, make a grant to an independent organization to conduct research on the ability of the centers of excellence to improve the school readiness of children receiving Head Start services, and to positively impact children’s development of the early elementary grades. The organization shall also conduct research to determine the success of centers of excellence in achieving the following:

“(A) coordinate public and private agencies, including institutions of higher education, to develop and implement programs that include educational, social, and emotional development goals, and to monitor the effectiveness of those programs for children and their families;

“(B) provide technical assistance to public and private agencies for the purpose of evaluating and improving Head Start programs; and

“(C) publish reports on the findings of such studies.

“(2) REPORT.—Not later than 48 months after the date of enactment of the Head Start Act (42 U.S.C. 9837) is amended to read as follows:

“SECTION 642. POWERS AND FUNCTIONS OF HEAD START AGENCIES.

“(a) IN GENERAL.—In order to be designated as a Head Start agency under this subchapter, an agency shall have authority under its governing laws to receive and administer funds provided under this subchapter, funds and contributions from private or local public sources that may be used in support of a Head Start program, and funds provided under any Federal or State assistance program pursuant to which a public or private nonprofit or for-profit agency (as the case may be) may be organized in accordance with this subchapter, could act as a grantee, contractor, or sponsor of projects appropriate for inclusion in a Head Start program. Such an agency may provide comprehensive services that include transfer funds so received, and to delegate powers to other agencies, subject to the powers of its governing board and its overall program responsibilities. The power to transfer funds and delegate powers shall include the power to make transfers and delegations covering component projects in all cases in which that power will contribute to efficiency and effectiveness or otherwise further program objectives.

“(b) ADDITIONAL REQUIREMENTS.—In order to be designated as a Head Start agency under this subchapter, a Head Start agency shall—

“(1) establish a program with all standards set forth in section 641A(a)(1), with particular attention to the standards set forth in subparagraphs (A) and (B) of such section;

“(2) demonstrate the capacity to serve eligible children with scientifically based curricula and other interventions and support services that help promote the school readiness of children participating in the program;

“(3) establish effective procedures and provide for the regular assessment of Head Start children, including both formal and direct and indirect assessment, where appropriate;

“(4) seek the involvement of parents, area residents, and local business in the design and implementation of the program;

“(5) provide for the regular participation of parents and area residents in the implementation of the program;

“(6) provide for local and other support needed to enable such parents and area residents to secure, on their own behalf, available assistance from public and private sources;

“(7) establish effective procedures to facilitate the involvement of parents of participating children in activities designed to help maintain, improve, and expand the education of their children, and to afford such parents the opportunity to participate in the development and overall conduct of the program at the school site;

“(8) conduct outreach to schools in which Head Start children will enroll, local educational agencies, the local business community, community-based organizations, faith-based organizations, museums, and libraries to generate support and leverage the resources of the entire local community in order to improve school readiness; and

“(9) offer (directly or through referral to local entities, such as entities carrying out Even Start programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 681 et seq.), to parents of participating children, family service providers, and parenting skills training;

“(10) offer to parents of participating children substance abuse and other counseling services (including mental health services) available directly or through referral to local entities, if needed, including information on the effect of drug exposure on infants and fetal alcohol syndrome; and

“(11) at the option of such agency, offer (directly or through referral to local entities), to such parents—

“(A) training in basic child development, including cognitive development;

“(B) assistance in developing literacy and communication skills;

“(C) opportunities to share experiences with other parents (including parent mentor relationships);

“(D) regular in-home visitation; or

“(E) any other activity designed to help such parents become full partners in the education of their children;

“(12) provide, with respect to each participating population, a performance measurement tool that includes consultation with such parents (including foster parents and grandparents, where applicable) about the benefits of participation in the program; and

“(13) consider providing services to assist younger siblings of children participating in its Head Start program, to obtain health services from other sources;

“(14) perform community outreach to encourage individuals previously unaffiliated with a Head Start program to participate in its Head Start program as volunteers;

“(15)(A) inform custodial parents in single-parent families that participate in programs, activities, or services carried out or provided under this subchapter about the availability of child support services for purposes of establishing paternity and acquiring child support; and

“(B) refer eligible parents to the child support offices of State and local governments;

“(16) provide parents of limited English proficient children with the opportunity to participate in any information session in an understandable and uniform format and, to the extent practicable, in a language that the parents can understand; and

“(17) at the option of such agency, partner with an institution of higher education and a nonprofit organization to provide college students with the opportunity to serve as mentors or reading coaches to Head Start participants.

“(c) PROGRESS.—

“(1) IN GENERAL.—Each Head Start agency shall take steps to ensure, to the maximum extent possible, that children maintain the developmental and educational gains achieved in Head Start and build upon such gains in further schooling.

“(2) COORDINATION.—

“(A) LOCAL EDUCATIONAL AGENCY.—In communities where both public prekindergarten programs and Head Start programs operate, a Head Start agency shall collaborate and coordinate activities with the local educational agency or other public agency responsible for the operation of the prekindergarten program and providers of prekindergarten, including outreach activities to identify eligible children.

“(B) ELEMENTARY SCHOOLS.—Head Start staff shall, with the permission of the parents of children enrolled in Head Start programs, regularly communicate with the elementary schools such children will be attending to—
“(1) share information about such children; and

“(2) get advice and support from the teachers in such elementary schools regarding teaching strategies and options; and

“(3) with transition to elementary school for such children.

“(C) OTHER PROGRAMS.—The head of each Head Start agency shall coordinate activities among the State agencies responsible for administering the State program carried out under the Child Care and Development Block Grant Act of 1996 (42 U.S.C. 9856 et seq.), and any other entity carrying out early childhood education and development programs, and the agencies responsible for administering section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a), parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq. and 670 et seq.), programs under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), and programs under section 619 and part C of title I of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), serving the children and families served by the Head Start agency.

“(3) COLLABORATION.—A Head Start agency shall take steps to coordinate activities with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following their participation in the program, including—

“(A) collaborating on the shared use of transportation and facilities; 

“(B) to reduce the duplication of services while increasing the program participation of underserved populations of eligible children; and

“(C) exchanging information on the provision of noneducational services to such children.

“(4) PARENTAL INVOLVEMENT.—In order to promote the continued involvement of the parents of children that participate in Head Start programs in the education of their children upon transition to school, the Head Start agency shall—

“(A) provide training to the parents—

“(i) to inform the parents about their rights and responsibilities concerning the education of their children; and

“(ii) to enable the parents—

“(I) to understand and work with schools in order to communicate with teachers and other school personnel;

“(II) to participate in the schoolwork of their children; and

“(III) to participate as appropriate in decisions relating to the education of their children; and

“(B) take other actions, as appropriate and feasible, to support the active involvement of the parents with schools, school personnel, and school-related organizations.

“(d) ASSESSMENT.—Each Head Start agency shall adopt, in consultation with experts in child development, and with classroom teachers, an assessment to be used when hiring or evaluating any classroom teacher in a center-based Head Start program. Such assessment shall measure whether such teacher has mastered the functions described in section 642A(1)(A) and attained a level of literacy appropriate to implement Head Start curricula.

“(e) FUNDED ENROLLMENT; WAITING LIST.—Each Head Start agency shall enroll 100 percent of funded enrollment and maintain an active waiting list at all times with ongoing outreach to the community and activities to recruit eligible populations.

“(f) TECHNICAL ASSISTANCE AND TRAINING PLAN.—In order to receive funds under this subchapter, a Head Start agency shall develop an annual technical assistance and training plan. Such plan shall be based on the agency’s self-assessment, the community needs assessment, and the needs assessed by the needs of parents to be served by such agency.”.

SEC. 11. HEAD START TRANSITION.

Section 642A of the Head Start Act (42 U.S.C. 9857a) is amended as follows—

“SEC. 642A. HEAD START TRANSITION AND ALIGNMENT WITH K–12 EDUCATION.

“(1) Each Head Start agency shall take steps to coordinate activities with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following their participation in the program, including—

“(1) developing and implementing a systematic procedure for transferring, with parental consent, Head Start program records for each participating child to the school in which such child will enroll;

“(2) establishing ongoing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, health staff, and local educational agency liaisons designated under section 722(g)(1)(J)(i) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(i))) to facilitate coordination of programs;

“(3) developing continuity of developmentally appropriate curricula and practice between the Head Start agency and local educational agency to ensure an effective transition and appropriate shared expectations for children’s learning and development as the children make the transition to school;

“(4) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers to discuss the educational, developmental, and other needs of individuals;

“(5) organizing and participating in joint training, including transition-related training of school staff and Head Start staff;

“(6) developing and implementing a family outreach and support program, in cooperation with entities carrying out parental involvement efforts under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), and family outreach and support efforts under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), taking into consideration the language needs of limited English proficient parents;

“(7) assisting families, administrators, and teachers in enhancing educational and developmental continuity and continuity of parental involvement in activities between Head Start services and elementary school classes;

“(8) linking the services provided in such Head Start program with the education services, including services relating to language, literacy, and nutrition, provided by such local educational agency;

“(9) helping parents understand the importance of parental involvement in a child’s academic success by sharing the parents’ strategies for maintaining parental involvement as their child moves from the Head Start program to elementary school;

“(10) developing and implementing a system to increase program participation of underserved populations of eligible children, including children with disabilities, homeless children, children in foster care, and limited English proficient children; and

“(11) coordinating activities and collaborating to ensure that curricula used in the Head Start program are consistent with early learning standards with regard to cognitive, social, emotional, and physical competencies that children entering kindergarten are expected to demonstrate.”.

SEC. 12. SUBMISSION OF PLANS TO GOVERNORS.

Section 643 of the Head Start Act (42 U.S.C. 9858) is amended—

“(1) in the first sentence, by inserting ‘‘for approval’’ after ‘‘submitted to the chief executive officer of the State’’;

“(2) by adding at the end the following:

“(A) by inserting ‘‘and’’ for ‘‘, unless the term ‘‘member’’ or ‘‘members’’ has the meaning given the term in paragraphs (2) and (3), respectively, of section 101 of title 37, United States Code.

“(B) by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (8), (9), (10), and (11), respectively;

“(C) by inserting after paragraph (4) the following:

“(5) The term ‘‘member’’ and ‘‘members’’ have the meaning given the term in paragraphs (2) and (3), respectively, of section 406(a) of title 37, United States Code.

“(D) by redesigning by inserting the following:

“SEC. 645A. EARLY HEAD START GRANTS.

“Section 645A of the Head Start Act (42 U.S.C. 9857a) is amended—

“(1) in paragraph (1), by inserting ‘‘130 percent of’’ after ‘‘below’’; and

“(C) by striking ‘‘30’’ and inserting ‘‘45’’; and

“(D) in the last sentence, by inserting ‘‘to Indian and migrant and seasonal Head Start programs in existence on the date of enactment of the Head Start Improvements for State Readiness Act, or after other assistance’’. 

SEC. 13. PARTICIPATION IN HEAD START PROGRAMS.

Section 645A of the Head Start Act (42 U.S.C. 9857a(a)) is amended—

“(1) in paragraph (3), by striking ‘‘100 percent of’’ and inserting ‘‘130 percent of’’; and

“(2) in paragraph (4), by striking ‘‘130 percent of’’ and inserting ‘‘150 percent of’’.

“(B) by inserting ‘‘and’’ for ‘‘, unless the term ‘‘member’’ or ‘‘members’’ has the meaning given the term in paragraphs (2) and (3), respectively, of section 101 of title 37, United States Code.

“(B) by adding at the end the following:

“(1) in paragraph (1), by inserting ‘‘130 percent of’’ after ‘‘below’’;

“(2) in paragraph (2), by striking ‘‘30’’ and inserting ‘‘45’’; and

“(3) in the first sentence—

“(A) by striking ‘‘45’’ and inserting ‘‘30’’;

“(B) by striking ‘‘45’’ and inserting ‘‘30’’; and

“(C) by inserting after paragraph (4) the following:

“(5) The amount of any special pay payable under section 310 if title 37, United States Code, relating to duty subject to hostile fire imminent dangers.

“(ii) the amount of basic allowance payable under section 483 of such title, including any such amount that is provided on behalf of the member for housing that is acquired or constructed under the alternative authority for the acquisition and improvement of military housing under subchapter IV of chapter 189 of title 10, United States Code, or any other related provision of law.

“(4) After demonstrating a need through a comprehensive program, an agency may apply to the Secretary to convert part-day sessions, particularly consecutive part-day sessions, into full-day sessions.

SEC. 14. EARLY HEAD START PROGRAMS.

Section 645A of the Head Start Act (42 U.S.C. 9857a) is amended—

“(1) by striking the section heading and inserting the following:

“SEC. 645A. EARLY HEAD START GRANTS;”.

“(2) in subchapter (b) of such section—

“(A) by striking the section heading and inserting the following:

“SEC. 645A. EARLY HEAD START GRANTS;”.

“(B) by redesigning paragraphs (5), (6), (7), (8), and (9) as paragraphs (6), (7), (8), and (9) of such section;

“(C) by striking paragraph (4) and inserting the following:

“(4) The term ‘‘headquarters’’ means the headquarters of the Department of Defense for the United States Code, relating to duty subject to hostile fire imminent dangers.

“(ii) the amount of basic allowance payable under section 483 of such title, including any such amount that is provided on behalf of the member for housing that is acquired or constructed under the alternative authority for the acquisition and improvement of military housing under subchapter IV of chapter 189 of title 10, United States Code, or any other related provision of law.

“(4) After demonstrating a need through a comprehensive program, an agency may apply to the Secretary to convert part-day sessions, particularly consecutive part-day sessions, into full-day sessions.

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(i) by inserting "(including home-based services)" after "with services"; and
(ii) by inserting ", and family support services" after "health services"; and
(E) in State Head Start paragraph (7), as redesignated by subparagraph (B), the following:
(8) develop and implement a systematic procedure for transitioning children's parents from an Early Head Start program into a Head Start program or another local early childhood education program.
(F) in paragraph (7), as redesignated by subparagraph (B), the following:
(1) by striking "and providers" and inserting ", and providers"; and
(2) by inserting ", and the agencies responsible for administering section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a) and parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq. and 670 et seq.)", after "(20 U.S.C. 1400 et seq.)";
(3) in subsection (d)—
(A) in paragraph (1), by inserting ", including local governments, and entities operating migrant and seasonal Head Start programs" after "subchapter"; and
(B) in paragraph (2), by inserting ", including community-based organizations" after "private entities";
(4) in subsection (g)(2)(B), by striking clause (iv) and inserting the following:
"(iv) provide professional development and personnel enhancement activities, including the provision of funds to recipients of grants under this subsection (A), to develop and implement "
(5) in subsection (e), as so redesignated, by
(A) by striking the following:
"(3) financial assistance under this subchapter may be terminated or reduced, and an application for funding may be denied, after the recipient has been afforded reasonable notice and opportunity for a full and fair hearing, including—"
(B) by striking a comma after "(3) financial assistance under this subchapter may be terminated or reduced, and an application for funding may be denied, after the recipient has been afforded reasonable notice and opportunity for a full and fair hearing, including—"
(C) by adding at the end the following:
"(A) a right to file a notice of appeal of a decision within 30 days of notice of the decision from the Secretary; and
(B) access to a full and fair hearing of the appeal, not later than 120 days from receipt by the Secretary of the notice of appeal;"
(D) the Secretary shall develop and publish procedures (including mediation procedures) to be used in order to—
(1) resolve in a timely manner conflicts potentially leading to an adverse action between—
(A) recipients of financial assistance under this subchapter; and
(B) delegate agencies or Head Start Parent Policy Councils;
(2) avoid the need for an administrative hearing on an adverse action; and
(3) prohibit an agency from expending financial assistance awarded under this subchapter for the purposes of paying legal fees pursuant to an appeal under paragraph (3), except that such fees shall be reimbursed by the Secretary if the agency prevails in such decision; and
(4) the Secretary may suspend funds to a grantee for not more than 30 days.
B) recipients. Section 647(a) of the Head Start Act (42 U.S.C. 9842(a)) is amended by striking "Each recipient of" and inserting "Each Head Start agency, Head Start center, or Early Head Start center receiving."
(C) ACCOUNTING. Section 647 of the Head Start Act (42 U.S.C. 9842) is amended by adding at the end the following:
"(c) Each Head Start agency, Head Start center, or Early Head Start center receiving financial assistance under this subchapter shall furnish to the Secretary, a complete accounting of its administrative expenses, including expenses for salaries and compensation funded under this subchapter and provide such additional documentation as the Secretary may require."
SEC. 16. TECHNICAL ASSISTANCE AND TRAINING. Section 648 of the Head Start Act (42 U.S.C. 9853) is amended by—
(1) in subsection (a)(2), by striking "(b)" and "(c)" and inserting "(b), (c), and (d)";
(2) by redesigning subsections (b) through (e) as subsections (b) through (f), respectively;
(3) by inserting after subsection (a) the following:
"(b) The Secretary shall make available funds set aside in section 660a(2)(C)(i) to support a regional or State system of early childhood education training and technical assistance that improves the capacity of Head Start programs to deliver services in accordance with the standards described in section 641A(a)(1), with particular attention to the following:
(A) and (B) of such section. The Secretary shall—
(1) encourage States to supplement the funds authorized in section 644(a)(2)(C)(ii) with Federal, State, or local funds other than Head Start funds, to expand training and technical assistance activities beyond Head Start agencies to include other providers of other early childhood services within a region or State; and
(2) encourage States to supplement the funds authorized in section 644(a)(2)(C)(i) with Federal, State, or local funds other than Head Start funds, to expand training and technical assistance activities beyond Head Start agencies to include other providers of other early childhood services within a region or State;"
(C) in paragraph (5), by inserting ", including assessing the needs of homeless children and their families" after "needs assessment";
(D) in paragraph (10), by striking ", and" and inserting a semicolon;
(E) in paragraph (11), by striking the period and inserting a semicolon;
(F) by adding at the end the following:
"(12) assist Head Start agencies and programs in increasing the program participation of homeless children;"
(4) the Secretary shall develop and publish procedures to be used in order to—
(1) ensure that agencies with demonstrated expertise in providing high-quality training and technical assistance to improve the delivery of Head Start services, including State agencies, migrant and seasonal Head Start programs, and other entities providing training and technical assistance in early education that are included in the planning and coordination of the system; and
(2) encourage States to supplement the funds authorized in section 644(a)(2)(C)(i) with Federal, State, or local funds other than Head Start funds, to expand training and technical assistance activities beyond Head Start agencies to include other providers of other early childhood services within a region or State;"
(5) in subsection (d), as so redesignated—
(A) in paragraph (1)(b)(i), by striking "educational performance measures" and inserting "measures";
(B) in paragraph (2), by inserting "and for activities described in section 1221(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) after "children with disabilities";
(C) in paragraph (5), by inserting ", including assessing the needs of homeless children and their families" after "needs assessment";
(D) in paragraph (10), by striking "and" and inserting a semicolon;
(E) in paragraph (11), by striking the period and inserting a semicolon;
(F) by adding at the end the following:
"(12) assist Head Start agencies and programs in increasing the program participation of homeless children;"
(6) in subsection (f), as so redesignated, by inserting "or providing services to children determined to be abused or neglected, training for personnel providing Head Start services to children referred by entities providing child welfare services or receiving child welfare services, after "English language"; and
(7) by adding at the end the following:
"(g) The Secretary shall provide, either directly or through grants or other arrangements funds for training and technical assistance to personnel in addressing the unique needs of migrant and seasonal farmworking families, families with limited English proficiency, and homeless families;
(8) Funds used under this section shall be used to provide high-quality, sustained, and coordinated training and technical assistance in order to have a positive and lasting impact on classroom instruction. Funds shall be used to carry out activities related to 1 or more of the following:
(1) Education and early childhood development.
(2) Child health, nutrition, and safety.
(3) Early childhood development training and technical assistance to parents and community organizations that serve children or that impact the quality or overall effectiveness of Head Start programs.
(4) Other areas that impact the quality or overall effectiveness of Head Start programs.

“(i) Funds used under this section for training shall be used for needs identified annually by a grant applicant or delegate agency in its program improvement plan, except that funds used for long-distance travel expenses for training activities—

(‘‘1’’ available locally or regionally; or

(‘‘2’’ similar to locally or regionally available training activities.

(ii) To support local efforts to enhance early language and preliteracy development of children in Head Start programs, and to provide the children with high-quality oral language skills, and environments that are rich in literature, in which to acquire language and preliteracy skills, each Head Start agency, in coordination with the appropriate State office and the relevant State Head Start collaboration office, shall ensure that all of the agency’s Head Start teachers receive ongoing training in language and emergent literacy (referred to in this subsection as ‘‘literacy training’’), including appropriate curricula and assessments to improve instruction and learning. Such training shall include training in methods to promote phonological and phonemic awareness and vocabulary development in an age-appropriate and culturally and linguistically appropriate manner.

‘‘(2) The literacy training shall be provided at the local level in order—

(A) to be provided, to the extent feasible, in the context of the Head Start programs of the State involved and the children the program serves; and

(B) to be tailored to the early childhood literacy background and experience of the teachers involved.

‘‘(3) The literacy training shall be culturally and linguistically appropriate and support children’s development in their home language.

‘‘(4) The literacy training shall include training with parents to enhance positive language and early literacy development at home.

‘‘(5) The literacy training shall include specific methods to best address the needs of children who are English language learners or are limited English proficient.

‘‘(6) The literacy training shall include specific methods to best address the needs of children who have speech and language delays, including problems with articulation, children who have speech and language delays, including problems with articulation, and culturally and linguistically appropriate training in methods to promote phonological and phonemic awareness and vocabulary development in an age-appropriate and culturally and linguistically appropriate manner.

SEC. 17. STAFF QUALIFICATION AND DEVELOPMENT.

Section 648(a) of the Head Start Act (42 U.S.C. 9843a) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2) and inserting the following:

‘‘(2) DEGREE REQUIREMENTS.—

‘‘(A) In general.—The Secretary shall ensure that—

(i) not later than September 30, 2010, all Head Start teachers in center-based programs have at least—

(aa) an associate degree (or equivalent course work) in early childhood education and related services described in subclause (I)(bb); or

(bb) an associate degree in a related educational field and, to the extent practicable, coursework relating to early childhood; and

(ii) not later than September 30, 2012, 100 percent of the directors, directors of long-day care, and directors of educational programs, as determined by the program director involved (including, at a minimum, an appropriate level of literacy, a demonstrated capacity to effectively implement an early childhood curriculum); and

(bb) submit to the Secretary a report indicating the number and percentage of classroom instructors in center-based programs who have (I)(bb) at the early childhood program level, and national efforts have been unsuccessful in recruiting an individual to serve as a Head Start teacher or curriculum specialist or education coordinator who meets the requirements of paragraph (2)(A); and

‘‘(ii) limited access to degree programs (including quality distance learning programs), due to the remote location of the program involved; or

(iii) that Head Start staff members are, as of the day the waiver is granted, enrolled in a program—

(I) grants the required degree; and

(II) will be completed within 1 year.

(B) LIMITATION.—An agency that receives a waiver under subparagraph (A) shall ensure that Head Start teachers for the agency, as of the day the waiver is granted, who have not met the postsecondary degree requirement of paragraph (2)(A), are otherwise highly qualified and competent shall be directly and appropriately supervised by a teacher who has met or exceeded the requirements of this subparagraph.

(C) DURATION.—The Secretary may not grant a waiver under subparagraph (A) for a period that exceeds 1 year.

(C) by adding at the end the following:

‘‘(4) promote the use of appropriate strategies to meet the needs of special populations (including limited English proficient populations).’’.

‘‘(3) in subsection (d)(3)(C) by inserting ‘‘, including a center,’’ after each agency staff member; and

‘‘(4) by adding at the end the following:

‘‘(D) PROFESSIONAL DEVELOPMENT PLANS.—

Every Head Start agency and center shall develop, in consultation with employees of the agency or center (including family service workers), a professional development plan for employees who provide direct services to children, including a plan for classroom teachers, curriculum specialists, and education coordinators to meet the requirements set forth in subsection (a).’’.

SEC. 18. TRIBAL COLLEGES AND UNIVERSITIES HEAD START PARTNERSHIP.

The Head Start Act (42 U.S.C. 9831 et seq.) is amended by inserting after section 648A the following:

‘‘SEC. 648B. TRIBAL COLLEGE OR UNIVERSITY HEAD START PARTNERSHIP PROGRAM.

(a) PURPOSE.—The purpose of this section is to promote social competencies and school readiness in Indian children.

(b) TRIBAL COLLEGE OR UNIVERSITY HEAD START PARTNERSHIP PROGRAM.—

(1) GRANTS.—The Secretary is authorized to award grants, for periods of not less than 5 years, to Tribal Colleges and Universities to—

(A) implement education programs that incorporate a solid understanding of tribal culture and language and increase the number of associate, baccalaureate, and graduate degrees
in early childhood education and related fields that are earned by Indian Head Start agency staff members, parents of children served by such an agency, and members of the community in a manner consistent with the goals and purposes of the programs involved;

"(B) develop and implement the programs under subparagraph (A) in technology-mediated formats, including providing the programs in such a manner as to distance learning and use of advanced technology, as appropriate; and

"(C) provide technology literacy programs for Indian Head Start agency staff members and children and families of children served by such an agency.

"(2) STAFFING.—The Secretary shall ensure that the Head Start Bureau of each of the programs described in paragraph (1) of this section and of the programs of the Head Start Bureau of the Department of Health and Human Services shall have staffing sufficient to administer the programs under this section and to provide appropriate technical assistance to Tribal Colleges and Universities receiving grants under this section.

"(c) ELIGIBILITY.—Each Tribal College or University desiring a grant under this section shall submit an application to the Secretary of Health and Human Services in such manner, and containing such information as the Secretary may require, including a certification that the Tribal College or University has established in partnership with 1 or more Indian Head Start agencies for the purpose of conducting the activities described in subsection (b).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 through 2010.

"(e) DEFINITIONS.—In this section:

"(i) INSTITUTION OF HIGHER EDUCATION.—The term "institute of higher education", as used in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))," (A) has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), and

"(B) means an institution determined to be accredited or a candidate for accreditation by a nationally recognized accrediting agency or association.

SEC. 19. RESEARCH, DEMONSTRATIONS, AND EVALUATION.

Section 641A of the Head Start Act (42 U.S.C. 9844) is amended—

"(1) in subsection (a)(1)(B), by inserting "and children determined to be disabled or neglected after children with disabilities";

"(2) in subsection (a)—

"(A) in paragraph (8), by adding "and" after the semicolon;

"(B) by striking paragraph (9); and

"(C) by redesignating paragraph (10) as paragraph (9); and

"(D) by striking the last sentence;

"(3) in subsection (b)—

"(A) in paragraph (1)(A)—

"(i) by striking clause (1); and

"(ii) by redesigning clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

"(B) in paragraph (7)(C)—

"(i) in clause (i), by striking "2003" and inserting "2007"; and

"(ii) by striking clauses (ii), (B) of paragraph (10), by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions"; and

"(4) by striking subsection (b) and inserting the following:

""(b) NATIONAL ACADEMY OF SCIENCES STUDY.—

""(1) IN GENERAL.—The Secretary shall enter into a contract with the Board on Children, Youth, and Families of the National Research Council, the Board on Testing and Assessments, and the Institute of Medicine, of the National Academy of Sciences to establish an independent panel of experts to review and synthesize research and theories in the field of education and biological sciences regarding early childhood, and make recommendations with regard to each of the following:

""(A) Age- and developmentally appropriate Head Start academic requirements and outcomes, including the standards described in section 641A(a)(1)(B)(ii).

""(B) Differences in test type, length, mix, and intensity of services that are necessary to ensure that children from challenging family backgrounds, including low-income children, children with disabilities, and limited English proficient children) enter kindergarten ready to succeed.

"(2) Appropriate assessment of young children for the purposes of improving instruction, services, and program quality, including—

"(i) formal and systematic observational assessments in a child's natural environment;

"(ii) assessments of children's development through parent or teacher interviews;

"(iii) appropriate accommodations for children with disabilities and limited English proficient children;

"(iv) appropriate assessments for children with disabilities, limited English proficient children, and children from different cultural backgrounds; and

"(v) other assessments used in Head Start programs.

"(3) Identification of existing, or recommendations for the development of, scientifically based, valid and reliable assessments that are capable of measuring child outcomes in the domains important to school readiness, including language, literacy, prereading ability, premathematics ability, cognitive ability, scientific ability, social and emotional development, and physical development.

"(4) Appropriate use and application of valid and reliable assessments for Head Start programs identified in accordance with subparagraph (D).

"(5) DEVELOPMENTAL ASSESSMENT.—

"(A) IN GENERAL.—The panel described in paragraph (1) shall consist of multiple experts in early childhood development and assessment in at least 1 of the following areas:

"(i) Child development (including cognitive, social, emotional, and physical development) and school readiness including approaches to learning.

"(ii) Professional development, including preparation of individuals who teach young children.

"(iii) Assessment of young children (including children with disabilities and limited English proficient children), including screening, diagnostic, and classroom-based instructional assessment.

"(B) REPRESENTATIVES.—The panel described in paragraph (1) shall be selected and appointed by the National Academy of Sciences, after consultation with the Secretary of Health and Human Services.

"(2) TIMING.—

"(A) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Head Start Improvements for School Readiness Act, the Board on Children, Youth, and Families of the National Research Council, the Board on Testing and Assessments, and the Institute of Medicine, of the National Academy of Sciences shall establish the panel described in paragraph (1), including selecting and appointing the members of the panel.

"(B) REPRESENTATIVES.—Not later than 1 year after the panel described in paragraph (1) is established, the panel shall complete, and submit to the Secretary a report containing, the recommendations described in paragraph (1). The Secretary shall not implement any amendments made to section 641A(a)(1)(B)(ii) by the Head Start Improvements for School Readiness Act until the panel submits the report.

"(3) APPLICATION OF PANEL REPORT.—The Secretary shall use the results of the review and recommendations described in paragraph (1) to (where appropriate) develop, inform, and advise—

"(A) the educational standards, and the performance measures, described in section 641A; and

"(B) the development of existing, or the development of, appropriate assessments utilized in the Head Start programs.

"(4) SERVICES TO LIMITED ENGLISH PROFICIENT CHILDREN AND FAMILIES.—

"(1) STUDY.—The Secretary shall conduct a study on the status of limited English proficient children and their families in Head Start or Early Head Start programs.

"(2) REPORT.—The Secretary shall prepare and submit to Congress, not later than September 2009, a report containing the results of the study, including information on—

"(A) the demographic profile of limited English proficient children from birth through age 5, including the number of such children receiving Head Start or Early Head Start services; and

"(B) the extent to which Head Start programs meet the requirements of section 642A for limited English proficient children.

"(5) QUALIFICATIONS AND TRAINING.—

"(1) QUALIFICATIONS.—The Secretary shall require, including a certification that the Tribal College or University has established in partnership with 1 or more Indian Head Start agencies for the purpose of conducting the activities described in subsection (b), or is provided by the Secretary, at such time, in such manner, and for such purposes as the Secretary may require, including a certification that the Tribal College or University has established in partnership with 1 or more Indian Head Start agencies for the purpose of conducting the activities described in subsection (b), that includes—

"(A) the educational standards, and the performance measures, described in section 641A; and

"(B) the extent to which Head Start programs provided to limited English proficient children and their families, including the types, content, duration, intensity, and costs of family services, language assistance, and educational services; and

"(C) procedures in Head Start programs for the assessment of language needs and the transition of limited English proficient children to kindergarten, including the extent to which Head Start programs meet the requirements of section 642A for limited English proficient children.

"(3) TIMING.—

"(A) IN GENERAL.—The panel described in paragraph (1) shall consist of multiple experts in early childhood development and assessment in at least 1 of the following areas:

"(i) Child development (including cognitive, social, emotional, and physical development) and school readiness including approaches to learning.

"(ii) Professional development, including preparation of individuals who teach young children.

"(iii) Assessment of young children (including children with disabilities and limited English proficient children), including screening, diagnostic, and classroom-based instructional assessment.

"(B) REPRESENTATIVES.—The panel described in paragraph (1) shall be selected and appointed by the National Academy of Sciences, after consultation with the Secretary of Health and Human Services.

"(2) TIMING.—

"(A) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Head Start Improvements for School Readiness Act, the Board on Children, Youth, and Families of the National Research Council, the Board on Testing and Assessments, and the Institute of Medicine, of the National Academy of Sciences shall establish the panel described in paragraph (1), including selecting and appointing the members of the panel.

"(B) REPRESENTATIVES.—Not later than 1 year after the panel described in paragraph (1) is established, the panel shall complete, and submit to the Secretary a report containing the recommendations described in paragraph (1). The Secretary shall not implement any amendments made to section 641A(a)(1)(B)(ii) by the Head Start Improvements for School Readiness Act until the panel submits the report.

"(3) APPLICATION OF PANEL REPORT.—The Secretary shall use the results of the review and recommendations described in paragraph (1) to (where appropriate) develop, inform, and advise—

"(A) the educational standards, and the performance measures, described in section 641A; and

"(B) the extent to which Head Start programs provided to limited English proficient children and their families, including the types, content, duration, intensity, and costs of family services, language assistance, and educational services; and

"(C) procedures in Head Start programs for the assessment of language needs and the transition of limited English proficient children to kindergarten, including the extent to which Head Start programs meet the requirements of section 642A for limited English proficient children.

"(4) SERVICES TO LIMITED ENGLISH PROFICIENT CHILDREN AND FAMILIES.—

"(1) STUDY.—The Secretary shall conduct a study on the status of limited English proficient children and their families in Head Start or Early Head Start programs.

"(2) REPORT.—The Secretary shall prepare and submit to Congress, not later than September 2009, a report containing the results of the study, including information on—

"(A) the demographic profile of limited English proficient children from birth through age 5, including the number of such children receiving Head Start or Early Head Start services; and

"(B) the extent to which Head Start programs met the requirements of section 642A for limited English proficient children.
(C) in the flush matter at the end by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions"; and

SEC. 21. COMPARABILITY OF WAGES.

Section 655 of the Head Start Act (42 U.S.C. 9850) is amended—

(1) by striking everything after "Secretary, after consultation with the Director, may under this subchapter, or the Community Services Block Grant Act (42 U.S.C. 9901 et seq.), or (3);" and

(2) by adding at the end the following:

"(b) Restrictions.—" (1) In general.—A program assisted under this subchapter, and any individual employed by, or assigned to, a program assisted under this subchapter (during the hours in which such individual is working on behalf of such program), shall not engage in—

"(A) any partisan or nonpartisan political activity or any other political activity associated with, or concerning, a faction or group, in an election for public or party office;

"(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

"(C) voter registration activity.

(2) RULES AND REGULATIONS.—The Secretary, after consultation with the Director of the Office of Personnel Management, may issue rules and regulations to provide for the enforcement of this section, which may include provisions for summary suspension of assistance or other action necessary to permit enforcement of this subsection.

SEC. 22. LIMITATION WITH RESPECT TO CERTAIN UNLAWFUL ACTIVITIES.

Section 655 of the Head Start Act (42 U.S.C. 9850) is amended by inserting "or in" after "assigned by".

SEC. 23. POLITICAL ACTIVITIES.

Section 656 of the Head Start Act (42 U.S.C. 9851) is amended—

(1) by striking all that precedes "chapter 656. POLITICAL ACTIVITIES.

"(a) DEFINITION.—The term 'nonemergency intrusive physical examination' means, with respect to a child, a physical examination that—

"(1) is not immediately necessary to protect the health or safety of the child or the health or safety of another individual; and

"(2) has died or is otherwise invasive, or involves exposure of private body parts.

"(b) REQUIREMENT.—A Head Start agency shall obtain written parental consent before administration of, or referral for, any health care service provided or arranged to be provided under this subchapter, or any intrusive physical examination of a child in connection with participation in a program under this subchapter.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit agencies from using established methods, for handling cases of suspected familial, individual, or institutional abuse and neglect, that are in compliance with applicable Federal, State, or tribal law.

"SUBMITTED RESOLUTIONS

SENATE RESOLUTION 152—WELCOMING EXCELLENCY HAMID KARZAI, THE PRESIDENT OF AFGHANISTAN, WITH AN INVITE TO EXPRESS SUPPORT FOR A STRONG AND ENDURING STRATEGIC PARTNERSHIP BETWEEN THE UNITED STATES AND AFGHANISTAN.

Whereas Afghanistan has suffered the ravages of war, foreign occupation, and oppression; Whereas following the terrorist attacks of September 11, 2001, the United States launched Operation Enduring Freedom, which helped to establish an environment in which the people of Afghanistan are building the foundations for a democratic government;

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

"(b)Restrictions.—"(1)In general.—A program assisted under this subchapter, and any individual employed by, or assigned to, a program assisted under this subchapter (during the hours in which such individual is working on behalf of such program), shall not engage in—

"(A) any partisan or nonpartisan political activity or any other political activity associated with, or concerning, a faction or group, in an election for public or party office;

"(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

"(C) voter registration activity.

"(2) Rules and regulations.—The Secretary, after consultation with the Director of the Office of Personnel Management, may issue rules and regulations to provide for the enforcement of this section, which may include provisions for summary suspension of assistance or other action necessary to permit enforcement of this subsection.

SEC. 24. PARENTAL CONSENT REQUIREMENT FOR HEALTH SERVICES.

The Head Start Act (42 U.S.C. 9831 et seq.) is amended by adding at the end the following new section:

"SEC. 657A. PARENTAL CONSENT REQUIREMENT FOR NONEMERGENCY INTRUSIVE PHYSICAL EXAMINATIONS.

"(a) Definition.—The term ‘nonemergency intrusive physical examination’ means, with respect to a child, a physical examination that—

"(1) is not immediately necessary to protect the health or safety of the child or the health or safety of another individual; and

"(2) has died or is otherwise invasive, or involves exposure of private body parts.

"(b) Requirement.—A Head Start agency shall obtain written parental consent before administration of, or referral for, any health care service provided or arranged to be provided under this subchapter, or any intrusive physical examination of a child in connection with participation in a program under this subchapter.

"(c) Rule of Construction.—Nothing in this section shall be construed to prohibit agencies from using established methods, for handling cases of suspected familial, individual, or institutional abuse and neglect, that are in compliance with applicable Federal, State, or tribal law.

Whereas, on March 17, 2005, Secretary of State Condoleezza Rice said of Afghanistan "this country was once a source of terrorism; it is now a steadfast fighter against terrorism. There could be no better story than the story of Afghanistan in the last several years and there can be no better story than the story of American and Afghan friendship. It is a story of commitment that will continue. We have a long-term commitment to this country": Now, therefore, be it

RESOLVED, That the Senate—

(1) welcomes, as an honorable guest and valued friend of the United States, President Hamid Karzai on the occasion of his visit to the United States as the democratically elected President of Afghanistan scheduled for May 21 through 25, 2005;

(2) supports a democratic, stable, and prosperous Afghanistan as essential to the security of the United States; and

(3) supports a strong and enduring strategic partnership between the United States and Afghanistan as a primary objective of both countries to advance their shared vision of peace, freedom, security and broad-based economic development in Afghanistan, the broader South Asia region, and throughout the world.

SENATE RESOLUTION 153—EXPRESSING THE SUPPORT OF CONGRESS FOR THE OBSERVATION OF THE NATIONAL MOMENT OF REMEMBRANCE AT 3:00 PM LOCAL TIME ON THIS AND EVERY MEMORIAL DAY TO ACKNOWLEDGE THE SACRIFICES MADE ON THE BEHALF OF ALL AMERICANS FOR THE CAUSE OF LIBERTY

Mr. LIEBERMAN (for himself and Mr. REID) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. Res. 153

Whereas Americans have been formally recognizing the sacrifice of those who gave their lives for the country since 1868 when General John A. Logan, Commander of the Grand Army of the Republic, designated May 30 as Decoration Day; Whereas most of those early commemorations encouraged Americans to decorate the graves of war dead with flowers so that, as General Logan stated, "We should guard their graves with sacred vigilance. . . We should invite the coming and going of reverent visitors and fond mourners. Let no neglect, no ravages of time, testify to the present or to the coming generations that we have forgotten as a people the cost of a free and uniled republic.";

Whereas in these times of challenge, when Americans have once again been called to defend freedom, it is as important as ever that all Americans take time to honor those brave men and women who throughout our Nation’s history have given their lives in the cause of liberty;

Whereas in 2000, President Clinton signed into law "The National Moment of Remembrance Act", to encourage Americans to pause at 3:00 pm local time on Memorial Day for a minute of silence to remember and honor those who have died in the service of this Nation; and

Whereas the National Moment of Remembrance brings the country together in unity of purpose, to honor the sacrifice of those who have died for the nation, and to rededicate all Americans to the original spirit of Decoration Day; Now, therefore, be it

RESOLVED, That the Senate—

(1) recognizes and agrees to:

S. Res. 153

Hagel, and Mr. REID) submitted the following resolution: which was referred to the Committee on the Judiciary:

S. Res. 153

Whereas Afghanistan has suffered the ravages of war, foreign occupation, and oppression; Whereas following the terrorist attacks of September 11, 2001, the United States launched Operation Enduring Freedom, which helped to establish an environment in which the people of Afghanistan are building the foundations for a democratic government;

Whereas, on January 4, 2004, the Constitutional Loya Jirga of Afghanistan adopted a constitution that provides for equal rights for human and civil rights, establishes procedures for free and fair elections, creates a system of checks and balances between the executive, legislative, and judicial branches, encourages a free market economy and private enterprise, and obligates the state to prevent terrorist activity and the production of narcotics and has pursued, in cooperation with the United States and its allies, a wide range of counter-narcotics initiatives.

Whereas the National Moment of Remembrance at 3:00 pm local time on Memorial Day provides a moment to reflect on the sacrifice of those who have died for their Nation, and to recognize the courage in the face of threats of violence, and a deep sense of civic responsibility.

Whereas, on December 7, 2004, Hamid Karzai took the oath of office as the first democratically elected President in the history of Afghanistan.

Whereas, on October 9, 2004, approximately 8,400,000 Afghans, including nearly 3,500,000 women, voted in Afghanistan’s first direct presidential election at the national level, demonstrating commitment to democracy, courage in the face of threats of violence, and a deep sense of civic responsibility.

Whereas, on December 7, 2004, Hamid Karzai took the oath of office as the first democratically elected President in the history of Afghanistan.

Whereas, on November 9, 2005, Afghanistan’s first legislative elections were held.

Whereas, the National Moment of Remembrance at 3:00 pm local time on Memorial Day provides a moment to reflect on the sacrifice of those who have died for their Nation, and to recognize the courage in the face of threats of violence, and a deep sense of civic responsibility.

Whereas, on December 7, 2004, Hamid Karzai took the oath of office as the first democratically elected President in the history of Afghanistan.

Whereas, on October 9, 2004, approximately 8,400,000 Afghans, including nearly 3,500,000 women, voted in Afghanistan’s first direct presidential election at the national level, demonstrating commitment to democracy, courage in the face of threats of violence, and a deep sense of civic responsibility.

Whereas the National Moment of Remembrance at 3:00 pm local time on Memorial Day provides a moment to reflect on the sacrifice of those who have died for their Nation, and to recognize the courage in the face of threats of violence, and a deep sense of civic responsibility.
Resolved, That the Senate—

(1) reaffirms its support for the National Moment of Remembrance at 3:00 pm on Memorial Day, created to honor the men and women of our Armed Services who died in the pursuit of freedom and peace; and

(2) urges the people of the United States to observe the National Moment of Remembrance on Memorial Day, to call upon all Americans to observe the National Moment of Remembrance this Memorial Day.

Memorial Day is a holiday unique in the world and distinctly American in spirit. On Memorial Day we honor no single man or woman—no general or admiral—but generations of Americans who served and answered their Nation’s call to defend not national boundaries but a noble cause.

On Memorial Day we pay homage not to a single battle or war, but to the enduring struggle for freedom that stretches from Bunker Hill to Baghdad. In these challenging times, when we hear almost daily of American service men and women who have sacrificed their lives to defend this great Nation, it is especially important that all Americans take a moment on Memorial Day to honor all these fallen heroes who throughout our history have made the ultimate sacrifice so that we may enjoy the freedoms we have today. Many may not be aware, but Americans began formally recognizing the sacrifice of those who had given their lives in the service of their country in 1868 when General John A. Logan, Commander of the Grand Army of the Republic, designated May 30 as Decoration Day.

The first large observance was held that year in Arlington National Cemetery.

Those early commemorations encouraged Americans to decorate the graves of war dead with flowers. The goal of this, as General Logan eloquently put it, was that “We should guard their graves with sacred vigilance.” Let pleasant paths invite the coming and going of reverent visitors and fond mourners. Let no neglect, no ravages of time, testify to the present or to the coming generations that we have forgotten as a people the cost of a free and undivided republic.

Through Decoration Day, General Logan began a noble tradition that we carry forward to this day.

In Congress recently sought to reinvigorate this tradition and encourage all Americans to not lose sight of the meaning of Memorial Day, as Decoration Day has been known since 1971.

In 2000 we passed and the President signed the “National Moment of Remembrance Act” which encouraged all Americans to pause wherever they are at 3:00 pm local time on Memorial Day for a moment of silence to remember and honor those who have died in service to their country.

Since we passed that legislation, we have seen our Nation attacked.

Once again our fighting men and women have responded to the call to defend their Nation. They have done so with courage, sacrifice, and valor. Their sacrifices are inspiring and are important reminders that we must continue to support those that fight, and honor those who have fallen.

We honor our heroes who founded and preserved our Nation and have since carried the torch of freedom into corners of the world where people huddled under tyranny’s dark shadows.

We honor these heroes with the words of President Abraham Lincoln in our heart when he said: “The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart...should swell into a mighty chorus of remembrance, gratitude and re dedication.”

SATE CONCURRENT RESOLUTION 36—EXpressING THE SENATE’s CONCERNING ACTIONS THAT SUPPORT THE NUCLEAR NON-PROLIFERATION TREATY ON THE OCCASION OF THE SEVENTH NPT REVIEW CONFERENCE

Whereas the Treaty on the Non-proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970, is an important international security arrangement, codifies one of the most important international security arrangements in the history of arms control, the arrangement by which states without nuclear weapons pledge not to acquire them, states with nuclear weapons commit to eventually eliminate them, and non-nuclear states are allowed to use for peaceful purposes nuclear technology under strict and verifiable control;

Whereas the Nuclear Non-proliferation Treaty is one of the most widely supported multilateral agreements, with 188 countries adhering to it;

Whereas the Nuclear Non-proliferation Treaty has encouraged many countries to officially abandon nuclear weapons or nuclear weapons programs including Argentina, Bangladesh, Brazil, Belgium, China, United Kingdom, United States, South Africa, South Korea, Ukraine, Taiwan; and

Whereas, at the 2000 NPT Review Conference, states-parties agreed to further practical steps on non-proliferation and disarmament;

Whereas, at the 2000 NPT Review Conference, states-parties agreed to further practical steps on non-proliferation and disarmament;

Whereas President George W. Bush stated on March 7, 2005, that “the NPT represents a key legal barrier to nuclear weapons proliferation and makes a critical contribution to international security. We are committed to making our country one of the United States is firmly committed to its obligations under the NPT”;

Whereas the International Atomic Energy Agency (IAEA) is responsible for monitoring compliance with safeguards agreements pursuant to the Nuclear Non-Proliferation Treaty by verifying certain non-proliferation obligations to the United Nations Security Council;

Whereas Presidents George W. Bush and Vladimir Putin stated on February 24, 2005, that we should bear a special responsibility for the security of nuclear weapons and fissile material in order to ensure that there is no possibility such weapons or materials would fall into terrorist hands;

Whereas Article IV of the Nuclear Non-Proliferation Treaty calls for the fullest possible exchange of equipment and materials for peaceful nuclear endeavors and allows states to acquire sensitive technologies to produce nuclear fuel for energy purposes but also recognizes that such fuel could be used to produce nuclear weapons;

Whereas the Government of North Korea ejected international inspectors from that country in 2002, announced its withdrawal from the Nuclear Non-Proliferation Treaty in 2003, has recently declared its possession of nuclear weapons, and is in possession of facilities capable of producing additional nuclear weapons usable for nuclear weapons programs or quickly produce such material if the state were to decide to withdraw from the Treaty;

Whereas the Government of Iran has pursued an undeclared program to develop a uranium enrichment capacity, repeatedly failed to fully comply with and provide full information to the IAEA regarding its nuclear activities, and stated that it will not permanently abandon its uranium enrichment program which it has temporarily suspended through an agreement with the European Union;

Whereas the network of arms traffickers associated with A.Q. Khan has facilitated black-market nuclear transfers involving several countries, including Iran, Libya, and North Korea, and represents a new and dangerous form of proliferation;

Whereas the United Nations Security Council, the states-parties agreed to further specific and practical steps on non-proliferation and disarmament;
more robust and effective global nuclear non-proliferation system; and

Whereas the governments of the United States and other countries should pursue a comprehensive and balanced approach to strengthen the global nuclear non-proliferation system, beginning with the Seventh NPT Review Conference of 2005; Now, therefore,

Resolved by the Senate (the House of Representa-

SECTION 1. SHORT TITLE.

This resolution may be cited as the “Rein-

SEC. 2. SENSE OF CONGRESS ON SUPPORT OF

Congress—

(1) reaffirms its support for the objectives of the Nuclear Non-Proliferation Treaty and expresses its support for all appropriate measures to strengthen the Treaty and to at-

its objectives; and

(2) calls on all parties participating in the

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(A) to insist on strict compliance with the

non-proliferation obligations of the Nuclear

Non-Proliferation Treaty and to undertake effective measures against states that are in violation of their Article I or Article II obligations under the Treaty;

(B) to agree to establish more effective controls on sensitive technologies that can be used to produce materials for nuclear weapons;

(C) to accelerate programs to safeguard and eliminate nuclear-weapons usable material to the highest standards to prevent access by terrorists or other states or organizations that may withdraw from the Treaty and escape responsibility for prior violations of the treaty or retain access to controlled materials and equipment acquired for “peaceful” purposes, and accelerate implementation of the NPT-related disarmament obligations and commitments that would, in particular, reduce the world’s stockpiles of nuclear weapons and weapons-grade material;

(D) to support the efforts of the United States and the European Union to prevent Iran from acquiring a nuclear weapons capability; and

(E) to strongly support the ongoing United States and European Union diplomatic effort in the context of the six-party talks that seek the verifiable and incontrovertible dismantlement of North Korea’s nuclear weapons programs and to use all appropriate diplomatic and other means to achieve this result;

(F) to pursue diplomacy designed to ad-

dress the underlying regional security prob-

lems in Northeast Asia, South Asia, and the Middle East, which would facilitate non-proliferation and disarmament efforts in those regions;

(G) to accelerate programs to safeguard and eliminate nuclear weapons usable material to the highest standards to prevent access by terrorists and governments;

(H) to build the case for the highly enriched ura-

nium in civil reactors;

(I) to strengthen national and interna-

tional export controls and relevant secu-

rity mechanisms authorized by United Nations Security Council Resolution 1540;

(J) to agree that no state may withdraw from the Nuclear Non-Proliferation Treaty and continue for prior violations of the Treaty or retain access to controlled materials and equipment acquired for “peaceful” purposes;

(K) to accelerate implementation of disar-

mament obligations and commitments under the Nuclear Non-Proliferation Treaty for the purpose of reducing the world’s stockpiles of nuclear weapons and weapons-grade fissile material; and

(L) to strengthen and expand support for the Proliferation Safeguards System.

Mrs. FEINSTEIN. Mr. President, I rise today along with Senator HAGEL, Senator LAUTENBERG, Senator DURBNE, Senator CORZINE, and Senator FEIN-

GOLD to submit a resolution calling on the parties participating at the Sev-

enth Review Conference in New York City to reaffirm their support for and take additional measures to strengthen the Nuclear Nonproliferation Treaty.

Our resolution calls on parties to the conference to, among other things: in-

sist on strict compliance with the non-

proliferation obligations of the Treaty and to undertake effective enforcement measures against states that are in violation of their Article I or Article II obligations; agree to establish more ef-

effective controls on sensitive technologies that can be used to produce materials for nuclear weapons; support the efforts of the United States and the European Union (EU) to prevent Iran from acquiring a nuclear weapons capa-

bility; support the Six-Party talks that seek the verifiable and incontrovertible dismantlement of North Korea’s nuclear weapons pro-

gram; accelerate programs to safe-

guard and eliminate nuclear-weapons usable material to the highest standards to prevent access by terrorists or other states or organizations that may withdraw from the Treaty and escape responsibility for prior violations of the treaty or retain access to controlled materials and equipment acquired for “peaceful” purposes, and accelerate implementation of the NPT-related disarmament obligations and commitments that would, in particular, reduce the world’s stockpiles of nuclear weapons and weapons-grade material.

More than 180 states have gathered in New York to review progress on imple-

menting their respective obligations as signatories of the Treaty and discuss additional steps each party can take to ful-

fill all of the NPT objectives.

The Nuclear Nonproliferation Treaty has played a critical role in protecting U.S. national security interests and promoting peace and stability in the international community by bringing nuclear armed and non-nuclear armed states together to stop the prolifera-

tion of nuclear weapons.

Each party has clear and specific ob-

ligations. States with nuclear weapons pledge to eventually eliminate them while states without nuclear weapons pledge not to acquire them.

The track record of the Treaty speaks for itself. This framework has successfully convinced countries such as Ukraine, Kazakhstan, Belarus, Libya and South Africa to forgo posses-

sion of nuclear weapons. At the dawn of the nuclear age, who would have thought of this possibility?

Simply put, the fewer number of states with nuclear weapons, the less likely such weapons will be used or fall into the wrong hands. The Treaty has saved lives and prevented unthinkable catastrophe.

The success of the Treaty is a testa-

ment to United States leadership and our commitment to multilateral diplo-

macy and cooperation. The gains in the past thirty plus years would not have been possible if we had chosen to shut ourselves out of the international community or take on the great chal-

lenges of the world on our own.

I might point out, as a signa-

tory to the Treaty, we have increased the security of Americans and our na-

tional security interests at a far less cost than any military intervention. Successful arms control treaties give us more bang for our buck.

Now is a critical opportunity to ex-

amine the successes of the past and the steps all parties can take to strengthen the Nuclear Nonproliferation Treaty in the future.

Indeed, the world has changed dra-

matically since the last Review Con-

ference in 1995 and the challenges to the nuclear nonproliferation regime have become more acute. In the past few years we have witnessed: the Sep-

ember 11th attacks and the intent of terrorist groups such as al-Qaeda to ac-

quire and use nuclear weapons; the dis-

covery of the AQ Khan nuclear black market; North Korea’s withdrawal from the Nuclear Nonproliferation Treaty; the exposure of Iran’s violations of its obligations as a signatory of the Nuclear Nonproliferation Treaty and the possibility that states may use the “Article 4 loophole” and develop a nuclear fuel cycle capa-

bility; the existence of global stock-

piles of nuclear weapons usable mate-

rials.

Combined with an uncertainty on the part of non-nuclear weapon states about the intent of nuclear weapon states to fulfill their disarmament ob-

ligations, these challenges threaten the continuation of a successful nuclear nonproliferation regime.

As the United Nation’s report “A More Secure World” states: “We are approaching a point at which the ero-

sion of the nonproliferation regime could become irreversible and result in a cascade of proliferation.”

North Korea has already withdrawn from the NPT and announced that it pos-

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rials.
outlined above that will strengthen the treaty and make the world safer from the threat of nuclear terror. I urge my colleagues to support this resolution.

SENATE CONCURRENT RESOLUTION 37—HONORING THE LIFE OF SISTER DOROTHY STANG

Mr. DeWINE submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 37

Whereas Sister of Notre Dame de Namur Dorothy Stang moved to the Amazon 22 years ago to help poor farmers build independent futures for their families, and was murdered on Saturday, February 12, 2005, at the age of 73, in Anapu, Para, a section of Brazil’s Amazon rain forest;

Whereas Sister Dorothy, a citizen of Brazil and the United States, worked with the Pastoral Land Commission, an organization of the Catholic Church that fights for the rights of rural workers and peasants, and defends land reform in Brazil;

Whereas Sister Dorothy’s death came less than a week after her meeting with Brazil’s Human Rights Secretary about threats to local farmers from some loggers and landowners;

Whereas, after receiving several death threats, Sister Dorothy recently commented, “I don’t want to flee, nor do I want to abandon the battle of these farmers who live without any protection in the forest. They have the sacrosanct right to aspire to a better life on land where they can live and work with dignity while respecting the environment.”;

Whereas Sister Dorothy was born in Dayton, Ohio, entered the Sisters of Notre Dame de Namur community in 1948, and professed final vows in 1956;

Whereas, from 1951 to 1966, Sister Dorothy taught elementary classes at St. Victor School in Calumet City, Illinois, St. Alexander School in Villa Park, Illinois, and Most Holy Trinity School in Phoenix, Arizona, and began her ministry in Brazil in 1966, in Coroata, in the state of Maranhao;

Whereas, last June, Sister Dorothy was named “Woman of the Year” by the state of Para for her work in the Amazon region, in December 2004, she received the “Humanitarian of the Year” award from the Brazilian Bar Association for her work helping the local rural workers, and earlier this year, she received an “Honorary Citizenship of the State” award from the state of Para; and

Whereas Sister Dorothy lived her life according to the mission of the Sisters of Notre Dame: making known God’s goodness and love of the poor through a Gospel way of life, community, and prayer, while continuing a strong educational tradition and taking a stand with the poor, especially poor women and children, in the most abandoned places, and committing her one and only life to work with others to create justice and peace for all: Now, therefore, be it

TEXT OF AMENDMENTS

SA 763. Mr. BURNS (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 188, to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2005 through 2011 to carry out the State Criminal Alien Assistance Program.

MEASURE READ THE FIRST TIME—S. 1098

Mr. ALLARD. Mr. President, I understand that S. 1098, introduced earlier today by Senator KENNEDY, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the title of the bill for the first time.

The senior assistant bill clerk read as follows:

A bill (S. 1098) to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program.

Mr. ALLARD. Mr. President, I ask for its second reading and object to my own request.

The PRESIDING OFFICER. The bill will be read the second time at the next legislative session.

ORDERS FOR TUESDAY, MAY 24, 2005

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator HARKIN for up to 15 minutes, Senator BOXER for up to 15 minutes, Senator LEAHY, provided, that Senator Kyl be also recognized prior to adjournment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. I yield the floor.

Mr. LEAHY. Mr. President, we have another Senator from Iowa for speaking up. We certainly did not want to shortchange on the Senator from Iowa for his courtesy, and I apologize to the Senator from Colorado. I was distracted when he was giving the order to put us out. I should have realized, after 31 years here, when we are on autopilot. And, of course, the Senator was following precisely the agreement as usually somebody does in wrapup that has been worked out between the Democratic leader and the Republican leader and was totally within his rights. I apologize for interrupting.

Mr. ALLARD. I thank the Senator from Vermont for speaking up. We certainly did not want to shortchange on his right to speak. I was glad to see when we got to the last part of the iteration we had the Senator from Vermont included.

Mr. LEAHY. Mr. President, the distinguished Senator has always been protective of the rights of Members of both sides.

JUDICIAL NOMINEES

Mr. LEAHY. Mr. President, we have other Senators who wish to speak.
There has been a lot that has gone on here tonight. I will speak further on this tomorrow. I thought on this occasion it would not be inappropriate to quote again from “Profiles in Courage.”

At the end of that book, President Kennedy included a eulogy. Interestingly enough, it was a eulogy in 1866 upon the death of Senator Solomon Foot, a predecessor of mine from Vermont. The eulogy for Senator Foot of Vermont was delivered by Senator William Pitt Fessenden of Maine. Senator Fessenden, like Senator Foot, was a Republican—in fact, all Senators from Vermont, every single Senator from Vermont, with the exception of one, has been a Republican. But Senator Fessenden would soon thereafter vote against his party to acquit President Andrew Johnson of charges of impeachment.

Senator Fessenden was the first of several courageous Republican Senators who had the courage to conscience before his country rather than party. Despite the pressures and whatever the consequences, he exercised his judgment as a Senator, consistent with his oath to do impartial justice.

Let me just read what he said after the death of Senator Foot of Vermont:

When, Mr. President, a man becomes a member of this body, he cannot even dream of the ordeal to which he cannot fail to be exposed:

- of how much courage he must possess to resist the temptations which daily beset him;
- of that sensitive shrinking from undeserved censure which he must learn to control;
- of the ever-recurring contest between a natural desire for public appropriation and a sense of public duty;
- of the load of injustice he must be content to bear, even from those who should be his friends;
- of the imputations of his motives;
- of the sneers and sarcasms of innominate malice;
- of the manifold injuries which partisan or private malignity, disappointed of its objects, may shower upon his unprotected head.

All this, Mr. President, if he retained his integrity, he must learn to bear unmoved, and walk steadily onward in the path of duty, sustained only by the reflection that time may do him justice, or if not, that after all his individual hopes and aspirations, and even his name among men, should be of little account to him when weighed in the balance against the welfare of a people of whose destiny he is a constituted guardian and defender.

A number of our Senate colleagues today from both parties stood up to keep the Senate from making a terrible, an irreparable mistake—terrible and irreparable because, for the first time in over 200 years, the Senate would no longer have a check and balance. For the first time in over 200 years, the Senate would no longer be able to protect the rights of the minority.

I applaud them for this. As I said, I will speak more tomorrow. I thank my distinguished colleague and dear friend from Iowa for letting me go ahead.

I yield the floor.

The PRESIDENT PRO Tempore of the Senate.

Mr. HARKIN. Mr. President, I am very pleased to hear about the bipartisan agreement on minority rights in the Senate, that preserves the right of the minority to extended debate, that preserves the checks and balances that our Founding Fathers prized so highly.

My hope now is that after weeks of distraction, after weeks during which the majority leader threatened the nuclear option, to sort of blow up the Senate, now we hopefully can return to the people's business.

I thank the 14 Senators, I guess 7 Democrats and 7 Republicans, who worked so hard to bring us back from the brink and get us away from this nuclear option that really would have destroyed the smooth functioning of the Senate.

But we have been talking for weeks and weeks about this, about this nuclear option. People I have talked to have been absolutely astonished that the Senate has rejected by these nuclear option threats. They keep asking me why haven't we been addressing the real concerns that keep Americans up at night: worrying about their jobs, their health care and their families' future. Why is the Senate spending its time on this narrow ideological agenda and ignoring the people's business?

The majority leader, the Senator from Tennessee, had planned to keep the Senate up through the night tonight as a prelude to detonating this nuclear option.

In anticipation of that, early yesterday, on my Senate Web site and through the news outlets, I informed the people of my State of Iowa I would be coming to the floor late this evening to share their concerns and their worries, the things that keep them up at night.

The response has been overwhelming. I said that my Des Moines office and my Washington offices would be open all night, answering calls and receiving e-mails. I encouraged Iowans to keep the calls and e-mails coming all through the night and to let me know what keeps them up at night. I had planned to spend as much time as possible answering the phones myself.

Since noon today, we have received over 600 e-mails and 500 phone calls. I thank all the Iowans who contacted me by e-mail or by phone. I had planned to read as many as I could tonight, during the long night that we were supposed to be here. Obviously, that is not going to happen. But we have been inundated with messages from Iowans telling us what they have to say about the right to retire, however they cannot, due to the cost of health care. They have worked 30 years and must keep working until age 65. After 30 years in the classroom, an individual has earned the right to retire. Please address this to the Senate.

The fear that the Social Security system is going to be changed keeps me up at night. . . . My worry is not just for myself but for everyone affected by the proposed revisions in the social security system.

Susan from Des Moines sends me the following e-mail:

The fear that the Social Security system is going to be changed keeps me up at night. . . . My worry is not just for myself but for everyone affected by the proposed revisions in the social security system.

Barbara from Mount Vernon, IA, had this to say:

What keeps me up at night is how I'm going to pay my bills and still provide care for Sherry, in Sioux City e-mailed me to make two points.

One, I do not like the GOP violating the rules and violating the Founding Fathers' checks and balances; and, two, I am retiring from teaching tomorrow and I am afraid most of my students will not be in good enough jobs to afford their own health care. Plus I myself must wait 24 months for health coverage because I don't qualify for Medicare.

Linda in Des Moines sent the following e-mail:

Mr. Harkin, thank you for asking. I will tell you what keeps me up at night. The fear I will get sick and not be able to work. I have to work some overtime every week right now to just get by. I have not been able to accumulate a savings to fall back on. What with more health care costs my employer is putting on me, higher gas prices, higher grocery costs. I have to run as fast as I can to just barely keep up.

Patricia in West Branch, IA, sent this e-mail:

I work two jobs, my husband 3, to send our son to college. We all need some relief from this worry. Education, health care, the poor do not have homes or food. So let's worry about the real issues here.

Patty in Olin, IA, e-mailed me with what keeps her up at night:

Two Things: Gas and College 1.

Shirley in Eldridge, IA, e-mailed me with the following brief message:

I am bothered about rising health costs for retirees. I am concerned about the rising cost of gasoline and the rising cost of a college education. I am concerned that my grandchildren may not have the same opportunities that I and my children had to obtain an advanced degree.

This is the message that Al in Hinton, IA, sent me:

Health Insurance—I am seeing many educators who want to retire, some who need to retire, however they cannot, due to the cost of health care. They have worked 30 years and must keep working until age 65. After 30 years in the classroom, an individual has earned the right to retire. Please address this e-mail.

Sara in Anamosa, IA, shared a broad range of worries:

Dear Senator Harkin: I am a teacher who is concerned that American High Schools are not given the funds needed to train our students to compete in a global economy.

Sue, a librarian in Iowa City, told me:

I am concerned about the rising cost of a college education. . . . I worry that the divide between those who can afford college and those who cannot is growing ever wider. I don’t think our economy will be well-served by making an education an opportunity that only the wealthy can afford.

Dan from Des Moines e-mailed me the following:

I am concerned about the rising cost of college education. . . . I worry that the divide between those who can afford college and those who cannot is growing ever wider. I don’t think our economy will be well-served by making an education an opportunity that only the wealthy can afford.

The fear that the Social Security system is going to be changed keeps me up at night. . . . My worry is not just for myself but for everyone affected by the proposed revisions in the social security system.

Barbara from Mount Vernon, IA, had this to say:

What keeps me up at night is how I’m going to pay my bills and still provide care for Sherry, in Sioux City e-mailed me to make two points.
for the kids. I serve at my job at Four Oaks, Inc. I'm a youth counselor at 4 Oaks serving children in a residential setting who have been abused or neglected. Some of the needs these children have for deep relationships with adults. With the high turnover in facilities such as mine, children go through hardship once again. Staff needs to move on to other facilities, and they will meet their day to day obligations. As a supervisor I do stay up at night worrying about the children and my own financial needs.

Shannon from Garwin, Iowa, sent me this message:

Dear Senator Harkin, I can easily tell you what keeps me up at night. Thank you for asking. I am a 30 year old Registered Nurse. . . . I have a very expensive health insurance plan that goes up every year. It does not cover my family, me only. My husband works as an electrician and has no insurance. Our children have health insurance that we pay for out of pocket. We have no dental. We worry constantly. Save for college? That is a joke in its self.

Ron, in La Mars, IA, said:

We need an aggressive program for alternative fuels. If we do not break away from foreign oil we will be bogged down in the Middle East forever.

Ann, an elementary school principal in Waukon, IA, had this to say:

There are many things that keep me up at night. Among these concerns are the rising cost of medicine. The reduction of services to families through medicare cuts and cuts in the department of human services. I have families who fear their foodstamp benefits will be cut.

Here is Fabian from Bellevue, IA: Collapse of the general economy in industrial and manufacturing sectors.

Patrick from Sioux City, IA:

We need to reform the health care and transportation systems in America.

Kim of Cresco, IA:

We need to be more focused on education in America than the filibuster.

Here is Sandra, who e-mailed me:

I have families without jobs or such low-paying jobs they work several to make ends meet. Children are left un supervised. How about increasing the minimum wage?

Mr. President, this is what Iowans are telling me, in 60 plus e-mails, and over 500 phone calls today. This is what they want the Senate working on. And we spent all this time talking about a filibuster, a nuclear option: This judge, that judge. People must wonder if we have become totally dysfunctional here, so I am hopeful that, with this agreement, we are going to see a new day. I am hopeful that the majority leader will now turn his leadership and his energy to turn the Senate to the people’s business.

Let’s have a bill out here to raise the minimum wage and let’s get an up-or-down vote on it. Let’s get the Energy bill here on the floor so we can amend it and then have an up-or-down vote. Let’s do something about health care. Why don’t we extend the Federal Employees Health Benefit Program that all of us have—why don’t we extend it to small businesses all over America so they, too, can have the same kind of health coverage that we in the Congress have?

How about pension security? Let’s get legislation on the floor so we do not have more United Airlines, next maybe all the other airlines, perhaps even General Motors has now said they may not be able to meet their pension guarantees.

Education funding? How many times do we hear from our schools that we are not funding No Child Left Behind, that the guarantee we made almost 30 years ago now that we were going to fund the Individuals with Disabilities Education Act at 40 percent of the cost, now we are still at less than 20 percent?

This is what the vast majority of my Iowans say we should be working on. So I have a hope, with this agreement that was forged, we can leave that past behind us and that we can now bring this type of legislation to the floor. Forget about the nuclear option and get on with the people’s business here in the Senate. I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I understand that I have 15 minutes. I might have to take another 10 or another 10 in addition. I ask unanimous consent I may speak up to 25 minutes. The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. What I want to say, before my friend from Iowa leaves, thank you so much, Senator HARKIN. I think what you addressed in your remarks is something that has been missing from this debate, and that is what the people are telling us back home. They, in my opinion, do not want to see the filibuster. I understand it is a very important part of the American fabric of politics. I also understand, without a doubt, that the issues that concern their everyday lives are just not being addressed. My friend laid them out beautifully.

In Iowa, CA, our people are feeling the same things. They are struggling with high gas prices, lack of healthcare, worried about the cost of health care, and education. They are absolutely frightened about the President’s attack on Social Security. They want us to fight back. They want us to solve the Social Security problem without reducing benefits, without taking away Social Security, and not turning Social Security into a guaranteed gamble. These are issues that are key. Transportation is another issue my friend mentioned. I thank Senator HARKIN for his contribution tonight.

I also thank my colleagues on both sides of the aisle who took this Senate back from a cliff where there were very treacherous waters below. They turned us away from a power grab by the majorities of both sides who worked so hard to bring us together.

Mr. President, this is what Iowans say we should be working on. So I have a hope, with this agreement that was forged, we can leave that past behind us and we can now bring this type of legislation to the floor. Forget about the nuclear option and get on with the people’s business here in the Senate. I yield the floor.
enough people from both sides of the aisle to acknowledge that they were proud to filibuster and it was every bit as dangerous to America, who has seen so much favoritism by one side or the other. But the filibuster fantasy is that Priscilla Owen and Janice Rogers Brown have never had a vote in the Senate. I have already stated, they just cannot make the 60-vote cut because they are so out of the mainstream.

Then there is this issue the Republicans have now said they want to change from the nuclear option to the constitutional option. Nothing in the Constitution prohibits filibusters. We all know that the Constitution says the Senate shall write its own rules, which brings me to another point. Here is something I want the American people to know. I want my colleagues to understand. The Constitution says the Senate shall write its own rules. In Rule XXII of the Senate says if you want to change a rule of the Senate, folks, you have to get 67 votes to move to change the rules. It is important to do this when you change the rules of the Senate. The Constitution says change the rules of the Senate. The Constitution is the rules. But the Senate rules do not envision a small group of Senators changing the rules. It ensures that a large group of Senators must approve of changing the Senate rules. If you have to change the rules, this is what you have to have 67 votes to close off debate for a rule change.

Guess what? My Republican friends who brought us the nuclear option knew they could not get 67 votes to do that. They knew they had to get 67 votes to move to change the rules. It is important to do this when you change the rules of the Senate. The Constitution says change the rules of the Senate. The Constitution is the rules. But the Senate rules do not envision a small group of Senators changing the rules. It ensures that a large group of Senators must approve of changing the Senate rules. If you have to change the rules, this is what you have to have 67 votes to close off debate for a rule change.

Mr. President, 208 to 10 is what caused all the angst by the Republicans. They wanted to take away our right to filibuster. As I have said at home in many meetings, if any one of you got 95 percent of what you wanted in your life, you would be smiling. I would be—if not I wanted everything and I thought I knew best and I was the smartest. We all go through those times when we think that way but one would hope at this point when we get here, after working a little bit here in the Senate—and I admit I didn’t see it right in the beginning—we come to respect rights of the minority. That was not in the 1800s or the 1960s. The Republicans have never filibustered on judges. The Republicans launched an all-out filibuster against Abe Fortas. That was not in the 1800s or the 1960s. I was here and I saw that. It was launched Against Fortas.” This was first paragraph of that Post article. The Republicans launched an all-out filibuster against Abe Fortas. The second fantasy we have heard repeatedly recently from Republicans is that mainstream judges and we will be OK. We had a great chat. Mainstream judges, Senator. Send me anyone from the liberal side. Send me any one of you from the liberal side. Send me a judge from California, don’t send me one from the conservative side. I want to tell you a story about Orrin Hatch who was the Republican chairman of the Judiciary Committee when I was President. Orrin Hatch called me into his office and he said: Senator BOXER, if you want to get a vote on a judge from California, don’t send me anyone from the liberal side. Send me mainstream judges, Senator. Send me mainstream judges and we will be OK. We had a great chat.

I said: Well, I am not so sure; maybe sometimes you want to have someone a little more liberal. He said: Don’t discuss it with me. Mainstream judges. That’s it. So for Orrin Hatch, when Bill Clinton was President, he had a litmus test. Mainstream judges. I didn’t think it was that unreasonable. Where is the litmus test now on mainstream judges? It has gone out the windows. Alberto Gonzales himself said that Priscilla Owen’s opinions were “unconscionable judicial activism”. So we say to the President of the United States of America: Do what Bill Clinton did, the mainstream judges and we do not have any problem with that. We will walk down this aisle proudly. Frankly, we did it 208 times. I am not sure this President has any cause for alarm. He got 95 percent of his judges, but he wants it all, after all, he is George Bush. We had a King George. We had a king. Now we want a President of all the people. We do not want a king. We want him to govern. We do not want him to rule. There is a difference.

This wonderful agreement sustains our right in the future to step out if each of us determines there is a reason to filibuster. Again, the filibuster fantasy is that Priscilla Owen and Janice Rogers Brown have never had a vote in the Senate. I have already stated, they just cannot make the 60-vote cut because they are so out of the mainstream.

Then there is this issue the Republicans have now said they want to change from the nuclear option to the constitutional option. Nothing in the Constitution prohibits filibusters. We all know that the Constitution says the Senate shall write its own rules, which brings me to another point. Here is something I want the American people to know. I want my colleagues to understand. The Constitution says the Senate shall write its own rules. In Rule XXII of the Senate says if you want to change a rule of the Senate, folks, you have to get 67 votes to move to change the rules. It is important to do this when you change the rules of the Senate. The Constitution says change the rules of the Senate. The Constitution is the rules. But the Senate rules do not envision a small group of Senators changing the rules. It ensures that a large group of Senators must approve of changing the Senate rules. If you have to change the rules, this is what you have to have 67 votes to close off debate for a rule change.

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and I don’t want to come home with a C. Can you just change the rules today for me and make it an A? Change the rules. Or if you are serving on a jury, and everyone has to agree on the guilt of someone, but, oh, they decide on this day, only have to agree in numbers. I would go on and on with examples like this. The fact is, it is a terrible precedent for our children to see grown people in the Senate change more than 200 years of Senate history by going around the rules of the Senate.

I was just a freshman. I was annoyed with the filibuster. I was really annoyed. The Republicans were filibustering all the time. I thought it was terrible. One of my colleagues said: Let’s change the rules. I said: Great. I think President Clinton ought to get his whole agenda through. I am tired of hearing about what I don’t agree with.

I was wrong, I did not know I was wrong. But one thing did, I did not try to do it with some slipshod, fake precedent change. I tried to do it by getting 67 votes. We did not even come near 20 because it is a losing proposition.

The nuclear option would have been a disaster. And I have to tell you, out in the countryside, the polling is showing that the people are sick of this place. They do not understand what we are doing. We are irrelevant to them. And I have to tell you, I am going to fight to deprive her of those 51 votes, if I can. She stood alone on a court of six Republicans and one Democrat. She is a Republican. She stood alone 31 times because the court was not rightwing enough for her.

Let’s look at some of the times Janice Rogers Brown stood alone, how way out of the mainstream to the extreme she is.

She was the only one of us here who would come to fight to overturn the conviction of the rapist of a 17-year-old girl because she believed the victim gave mixed messages to the rapist.

Now, I just want to say something here. Every one of us here would come to the defense of a 17-year-old rape victim. And on a court of six Republicans and one Democrat, only one person stood alone, stood by the rapist. Janice Rogers Brown. So when I say I do not want her to be promoted, you can see why.

Janice Rogers Brown is bad for children and families. She was the only member of the court to oppose an effort to stop the sale of cigarettes to children. Now, I do not know how you all feel about this, but this is 2005, and we know what an addiction to cigarettes can be. We do not want our kids being able to purchase cigarettes in stores.

Mrs. BOXER. Mr. President, I ask unanimous consent for 1 minute to close.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Thank you, I say to my friend from Alabama. Janice Rogers Brown has an attitude toward seniors which is extraordinary. She calls senior citizens cannibals. She says they are militant and they canibalize their grandchildren by getting free stuff from the Government. I have to tell you, this woman is so far out of the mainstream, this is just a touch of the debate that is to hit the Senate floor.

So when we stand up as Democrats and say no to Janice Rogers Brown, we have a reason. It is not about the Senate. It is not about partisanship. It is about the American people and the American family.

Thank you, Mr. President. And I thank those Senators on both sides of the aisle for bringing us back from this precipice.

I yield the floor.

The PRESIDING OFFICER (Mr. Martinez). The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I may be allowed to speak for up to 20 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I would ask the Senator, before she leaves—I notice the debates over filibusters have senior people maybe flip and change their views—but I would ask her if it is not true that she just said a few moments ago that we must
keep the filibuster, but in 1995 the Senator was one of 19 Senators who voted to eliminate it entirely, not even just against judges but against the whole legislative calendar also.

Mrs. BOXER. If the Senator heard me speak a special quip a while about that, I said how wrong I was, how green I was, how I was frustrated with the Republicans blocking things. And I was dead wrong. I also said that what we tried to do is change the rules, which takes 67 votes. We did not go in the dead wrong, and I got done. So, yes, the Senator is right. I was dead wrong. Tough to admit that, but I have been very open about that since the beginning of the debate.

Mr. SESSIONS. That is good. And I apologize for not being here and hearing your remarks to begin with. I would not have asked that.

Mrs. BOXER. I don’t blame the Senator.

Mr. SESSIONS. Mr. President, I want to share a few thoughts at this time. There is no doubt that there has not been maintained in this body a successful filibuster against a President’s nominee for a judicial office until this last Congress when the Democrats changed the rules, as the Senator said they were going to do, and commenced systematic leadership-led filibusters against some of the finest nominees we have ever had.

People say: Well, you people in the Senate are upset, and you are fractious, and there is too much of this, and you guys need to get together. But it was not the Republicans who started filibustering judges. And it was a historic change in our procedures when the Democrats started doing it. It caused great pain and anguish.

When you have somebody as fine as Judge Bill Pryor, who I know, from Alabama, the editor and chief of the Tulane Law Review, a man of incredible intellect, intelligence and ability, and who always wants to do the right thing, to hear him trashed and demeaned really hurt me.

I am so pleased to hear today that those who have reached the compromise have said that we will give Bill Pryor an up-or-down vote. He had a majority of the Senate for him before, a bipartisan majority. At least two Democrats voted for giving him an up-or-down vote and would have voted for him. And we had gotten that up-or-down vote. We would have had that done a long time ago except for having, for the first time in history, a systematic tactic of blocking those nominees from an up-or-down vote through the use of the filibuster on judges.

Priscilla Owen made the highest possible score on the Texas bar exam, got an 84-percent vote in Texas, was endorsed by every newspaper in Texas—a brilliant, superb private practitioner—and they have held her up for over 4 years. The only thing I can see that would justify holding her up was that she is so capable, so talented, that she would have been on a short list for the Supreme Court. She should not have been blocked and denied the right to have an up-or-down vote.

Justice Janice Rogers Brown from California was on the ballot a few years ago in California. She got the highest vote in the California ballot, 74 percent of the vote on the California ballot. California is not a right-wing State. She got three-fourths of the vote. And they say she is an extremist? Not fair. It is just not fair to say that about these nominees.

It was said by the Senator from California that they did not get 60 votes, they did not make the cut. When has 60 votes been the cut? The vote, historically, since the founding of this Republic, is a majority vote. Lets look at that. The Constitution says that the Congress shall advise and consent on treaties, provided two-thirds agree, and shall advise and consent on judges and other nominations.

And to justify that, they have come up with bases to attack them that really go beyond the pale. I talked to a reporter recently of a major publication, a nationwide publication. People would recognize his name if I mentioned it. I talked about why I thought the nominees had been unfairly attacked, their records distorted and taken out of context, and they really were unfairly mis-representing their statements, opinions and actions. She said: Well, that’s politics, isn’t it?

Are we in a Senate now where because somebody is on a different side of the aisle, have we gotten so low that we can just distort somebody’s record—a person, a human being who is trying to serve their country—we can do that to them? I don’t think that is right. I don’t think we should do it. But I do believe we are sliding into that and have been doing so.

For example, was said recently by Senator BOXER that Judge Gonzales—now Attorney General of the United States—said that Priscilla Owen was an unconvincing activist. He did not say that about her. He did not. He has written a letter to say he did not. He testified under oath at a Judiciary hearing and said he did not. What he said was he reached a certain conclusion about what the legislature meant when they passed a parental notification statute, and based on that, he had been an unconvincing activist if he voted other than to say that the child did not have to notify her parents. Other members of the court reached a different conclusion about what the legislature meant with the statute, and he did not accuse anyone else of being an unconvincable activist. They have been running ads on television saying that as if it is fact. It is not. Surely, we should have the decency not to do those kinds of things.

An allegation just made about Janice Rogers Brown was that she criticized the free speech of an employee for criticizing their boss. That is not exactly what the case was. What the facts were— that employee sent out 200,000 e-mails on the boss’s computer system attacking the boss and the company. It was a disgruntled employee. How much do you have to take, clogging up the system with spam? One of the most liberal justices on the California Supreme Court joined her in that view. That is not an extreme position. She wasn’t saying a person could not criticize her boss.

Since the founding of the Republic, we have understood that there was a two-thirds supermajority for ratification and advice and consent on treaties and a majority vote for judges. That is what we have done. That is what we have done. What we have done. It was a conscious decision on behalf of the leadership, unfortunately, of the Democratic Party in the last Congress to systematically filibuster some of the best nominees ever submitted to the Senate. It has been very painful.

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Mr. President, seeing no other Senator, I yield the floor.

I compliment Senator BILL FRIST, the majority leader of the Senate. He systematically raised this issue with the leadership on the other side. He provided every opportunity to debate these nominees so that nobody could say they didn’t have a full opportunity to debate. He researched the history of the Senate, and he presented positions on it and why the filibuster on judicial nominees was against our history. He urged us to reach an accord and compromise. All we heard was no, no, no, you are giving a warm kiss to the far right, you are taking steps that are extreme, you are approving extreme nominees, people who should not be on the bench, and we are not going to compromise and we are not going to talk to you.

After considerable effort and determination and commitment to principle, Senator FRIST moved us into a position to execute the constitutional option, also referred to as the nuclear option. It has been utilized, as he demonstrated, many times by majority leaders in the past. It is not something that should be done lightly, but it is certainly an approved historical technique that has been used in this Senate. As a result of that, and the fact that they were facing a challenge, I think it was at that point we began to have movement on the other side, and they realized this deal was not going to continue as it was and that, under the leadership of Senator FRIST, we were not going to continue this unprecedented, unhistorical action of filibustering judicial nominees.

So it was out of that that we had the agreement that was reached today. With that constitutional option hanging over the heads of a number of people, a serious reconsideration took place. I think a number of Senators on the other side have been uneasy about this filibuster. They have not felt comfortable with it, but it was leadership-led and difficult, apparently, for them to not go along. Although, I have to note that Senator Zell Miller and BEN NELSON consistently opposed it and supported the Republican nominees each and every time as they came forward.

So out of all of this, we have reached an accord tonight. It has led to what appears to be a guarantee that three nominees, at least—Priscilla Owen, Janice Rogers Brown, and William Pryor, who is sitting now as a recess appointee on the Eleventh Circuit—will get an up-or-down vote. I believe all three of them will, and should be, rightfully, confirmed as members of the court of appeals of the United States of America. They will serve with great distinction. I am sorry we don’t have that same confidence that Judge Saad or Judge Myers will also get a vote. They may or may not, apparently. But we don’t have the same confidence from this agreement that they will. I think they deserve an up-or-down vote also. But today’s agreement was a big step forward.

Maybe we can go forward now and set aside some of the things of the past, and we will see Members of the other side adhere to the view of those who signed the agreement that a filibuster should not be executed except under extraordinary circumstances. Certainly, that is contrary to the position that they were taking a few months ago and certainly the position being taken last year.

So progress has been made. I salute particularly the majority leader who I believe, through his leadership and consistency, led to this result today. I am thrilled for Judge Pryor and his family because I know him, I respect him, and I know he will be a great judge. I am excited for his future.

Mr. President, seeing no other Senator here, I yield the floor.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:45 a.m. tomorrow.

Thereupon, the Senate, at 10:13 p.m., adjourned until Tuesday, May 24, 2005, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate May 23, 2005:

DEPARTMENT OF EDUCATION

TOM LUCE, OF TEXAS, TO BE ASSISTANT SECRETARY FOR PLANNING, EVALUATION, AND POLICY DEVELOPMENT, DEPARTMENT OF EDUCATION, VICE RAN BROWN VICTOR MANNO, RESIGNED.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

ARLENE HOLEN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING AUGUST 30, 2015, VICE ROBERT H. SHATTY, JR., TERM EXPIRED.

DEPARTMENT OF JUSTICE

ROD J. ROSENSTEIN, OF MARYLAND, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF MARYLAND FOR THE TERM OF FOUR YEARS, VICE THOMAS M. DESHAGO.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ GEN ERIC T. OLSON 0800
EXTENSIONS OF REMARKS

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

SPEECH OF
HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Thursday, May 19, 2005

Mr. KUCINICH. Mr. Chairman, the idea behind environmental justice is simple. People of color and people of limited means bear more than their fair share of environmental problems—like exposure to pollution—and are denied more than their fair share of environmental benefits—like access to natural areas or clean water.

It is also important to point out that if you were to look at both race and poverty to see which one would best predict locations of environmental contaminants in the air or water, you would find race to be the better predictor, according to studies dating back to 1987.

Here’s another way to look at it: Many studies have found that middle-income people of color live near more contamination than low-income white people. Enforcement of environmental laws is also less prevalent and weaker in communities of color. Penalties for hazardous waste violations were found to be roughly 500 percent higher when those violations happened in mostly white communities, than in communities of color. Penalties for hazardous waste violations were found to be roughly 500 percent higher when those violations happened in mostly white communities, than in communities of color.

In 1992, then President Bush created an Office of Environmental Justice in the EPA precisely to begin to deal with this problem. In 1994, President Clinton expanded the directive’s scope and applicability, again, in recognition of the seriousness of the problem.

But now, the Executive Order and the EPA’s Office of Environmental Justice are being ignored to death by the Administration. The National Environmental Justice Advisory Council is withering away. The EPA Inspector General in 2004 found that the EPA failed to comply with the Executive Order and changed their interpretation of the order to avoid an emphasis on people of color and low-income people.

The U.S. Commission on Civil Rights found in 2004 that the EPA failed to comply with the Executive Order and directed, again, in recognition of the seriousness of the problem.

The Hastings amendment would do exactly that. Every community, every person deserves equal access to clean air, clean water, natural areas, and healthy food. I urge my colleagues to support the Hastings amendment.

Mr. RANGEL. Mr. Speaker, I rise again today to draw the attention of this Chamber to the importance of this day in African-American history. Today marks what would have been the 80th birthday of Malcolm X, one of the more revolutionary and controversial leaders of the Civil Rights Movement.

Malcolm X was born on May 19, 1925. It was a time in American history where the opportunities of African-Americans were limited due to segregation and racial intolerance. He nonetheless was born to parents that were, not only proud of the black race, but instilled that pride in their politics, actions, and, most importantly, their children. He learned at an early age about the challenges that black men and women faced just because of the color of their skin and found ways to rise above those obstacles.

Too often, historians, social scientists, and the American public have attempted to pigeonhole Malcolm into a singular character. When they do so, they miss the true mark of his life and his experiences. Malcolm X’s personal story is a tale of many challenges, many conflicting events, many goals, and many aspirations. He was not simply the young son of a slain Black Nationalist or the young black student discouraged by his white teachers in the 1930s. Neither would he only be the street thug and hustler of 1940s nor the incarcerated felon of the 1950s. Nor was he just the influential minister of the Nation of Islam or the worldly Muslim of the organization of Afro-American Unity who loved his white brethren. He was all of these persons and more.

Malcolm Little, Detroit Red, Malcolm X, and El-Hajj Malik El-Shabazz were the same individual, seeking a goal of racial justice as himself, his family, and his people. He walked his journey in life in the same way that many blacks of his time do today. The education, radicalism, determination, and sense of justice that Malcolm fought for in his life represented the thoughts of blacks throughout the world then and today. To box Malcolm into a singular character would be a failure to understand his life and experiences and those of his time.

We should all take time this day and in the days to come to reflect on the challenges and accomplishments of Malcolm X. To this goal, I would like to alert this august chamber to the prospective exhibition at the Schomburg Center for Research in Black Culture at the New York Public Library in Harlem. This new exhibit, "Malcolm X: A Search for Truth," seeks to map out the major themes of his life in a "developmental journey" reflecting his "driving intellectual quest for truth." It offers evidence that has been unavailable: personal papers, journals, letters, lecture outlines—rescued from being sold at auction in San Francisco and on eBay in 2002.

Those papers, which the Shabazz family had lost control of when monthly fees for a commercial storage facility were left unpaid, were returned to them, and then lent for 75 years to the New York Public Library’s Schomburg Center in Harlem. The documents are lightly sampled in this first public showing, but they will eventually offer greater insight into Malcolm X’s developmental journey: from a black Nationalist father murdered in his prime, to a star elementary school pupil in a largely white school; to a hustler and thug; to a leader who, cut off by Muhammad, turned to a radical who built Muhammad’s Nation of Islam into a major national movement, declaring the white race to be the devil incarnate; and finally, to a political leader who, cut off by Muhammad, turned to traditional Islam and was rethinking his views, just as he was assassinated in New York’s Audubon Ballroom in 1965 at the age of 39.

Malcolm X’s brief life stands as a challenge no matter one’s perspective, an overwhelming presence in the rolling currents of American racial debates. After all, Islam is a force in the American black community partly because of Malcolm X (who emigrated to Mecca, changed his name to El-Hajj Malik El-Shabazz). Advocates of reparations for slavery echo his arguments. Less radically, believers in the advantage of black-run businesses and schools. And by seeking to internationalize race, particularly in the mid-1960’s, Malcolm X helped set the stage for Third World nationalism.

This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Worldism, which asserts that Western enslavement of dark-skinned peoples is played out on a world scale.

Even those who dissent from such views can relate to Malcolm X’s searing intelligence and self-discipline as a kind of developmental quest, ultimately left incomplete. The exhibit also includes material from the Schomburg and other collections, tells that story chronologically, using textual summaries and photographs to create a context for the personal papers.

Those papers include letters from Malcolm to his brother, Philbert Little, describing his first embrace of the Nation of Islam, as well as a collection of letters about his final embrace, suggesting how Muhammad tried to rein him in. And above the display cases, the walls are lined with photographs chronicling an elementary-school photograph of Malcolm, glimpses of the bodies of Nation of Islam followers killed by Los Angeles police in 1962, views of halls packed with devoted listeners, and finally, glimpses of the fallen chairs and stark disorder of the Audubon Ballroom after Malcolm X was murdered. An epilogue to the exhibition displays court drawings of the trial of the accused assassins, along with objects found on his body, including a North Vietnamese stamp showing an American helicopter getting shot down.

But, despite the new personal documents, there is something familiar about the exhibit, which does not offer new interpretations and misses an opportunity to delve more deeply into the difficulties in Malcolm’s quest. In his autobiography, Malcolm X makes clear the importance of speaking the “raw, naked truth” about the nature of race relations. He also recognized one of the tragic consequences of enslavement: the era of the man. The name of Malcolm X was picked to initiate as a stand-in for a lost original name. Names could also be readily changed to initiates as a stand in for a lost original identity.

In fact, invention became crucial. For Malcolm X, it was a matter of control: masquerading a Martin Luther King Jr., an expression of apology for “unkind things” said in the past. And the trial of the accused assassins from the Nation of Islam merits more explanation, particularly because a conspiracy theory of F.B.I. involvement has long simmered, even as Muhammad was known to have encouraged threats against Malcolm X and had already sent one disciple to kill him. The quest for truth, surely, goes on, but part of it means facing squarely the extent of certain kinds of hustle.

“Malcolm X: A Search for Truth” is at the Schomburg Center for Research in Black Culture, 151 Lenox Avenue, at 135th Street, Harlem, (212) 491-2200, through Dec. 31.

24TH ANNIVERSARY OF THE INDIAN MEDICAL ASSOCIATION

HON. PETER J. VISCLOSKY
OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. VISCLOSKY. Mr. Speaker, it is my distinct pleasure to announce that the Indian Medical Association will be celebrating their 24th year of establishment by hosting a gala dinner and banquet on Friday, June 3, 2005 at the Halls of St. George, in Schererville, Indiana.

The Indian Medical Association was created 24 years ago to promote goodwill and bonding friendships among local physicians through an exchange of medical knowledge and other healthcare related issues. They are dedicated to providing affordable and quality health care. The Indian Medical Association is also actively involved in public health care delivery, charitable work, hosting educational seminars for physicians, and health fair for the general public in the Northwest Indiana region.

In 2004, the Indian Medical Association offered scholarships to medical, nursing, and high school students. In January 2005, they raised more than $100,000 for the Tsunami Relief Fund. The Indian Medical Association is a great asset to Northwest Indiana. This organization has committed itself to providing quality service to the residents of Indiana’s First Congressional District in the medical community and has demonstrated exemplary service in its cultural, scholaristic, and charitable endeavors.

Mr. Speaker, I ask that you and other distinguished colleagues join me in commending the Indian Medical Association for their outstanding contributions. Commitment to improving the quality of life for the people of Northwest Indiana and throughout the world is truly inspirational and should be recognized and commended.

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

SPEECH OF
HON. DENNIS J. KUCINICH
OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. KUCINICH. Mr. Chairman, more than ever before, our wastewater treatment systems are failing. Effluent from wastewater treatment plants is contaminating our rivers with chemicals like Triclosan—a germ toxin added to countless consumer products; hormones such as the active ingredient in estrogen therapy; the insect repellent DEET; and an anti-epileptic drug (Environmental Science and Technology, 36 (6), 1202–1211, 2002 http://pubs.acs.org/subscribe/journals/esthag-w/2004/dec/science/pt_nr.html; Pharmaceutical Data E enqueue Environmental Researchers,” Environmental Science and Technology, March 16, 2005). A Baylor University study in Texas found a prescription drug in fish tissues (“Frogs, fish and pharmaceuticals a troubling brew” November 14, 2003 (http://www.cnn.com/2003/TECH/science/11/14cohsfc.frogs.fish/)

At the same time that these new challenges are emerging, we are still trying to overcome the well-established wastewater contaminants from aging and broken sewer systems that continue to contaminate water with E. coli and other water borne disease. By EPA’s 2003 estimate, the need for sewer upgrades alone is so great and so widespread that the funding required to alleviate it is $181 billion (“Wastewater Treatment: Overview and Background,” Congressional Research Service, February 7, 2005). In fact, the infrastructure is so old in many places that when it rains, wastewater treatment plants can’t handle the increased volume. The result is that untreated or poorly treated sewage flows into our waters, causing our beaches to be closed in order to protect public health. For nearly three decades, communities dealing with this are on the Great Lakes, which holds 20% of the world’s fresh water supply.

So what is the solution proposed by this Administration and Republican leadership in Congress? Reduce funds for Environmental Water Infrastructure by $350 million. Ohio alone would lose $20 million in revenue and roughly 650 jobs from FY 05 if the proposed cuts to the Clean Water State Revolving Fund come to pass.

While the need to upgrade our wastewater infrastructure to deal with emerging problems increases, the proposed cuts in this bill take us in the opposite direction. Let’s improve our health and the environment, not make it
Mr. CLEAVER. Mr. Speaker, I rise today to pay tribute to Reverend Doctor Earl Abel, a remarkable and compassionate leader whose legacy has touched so many Kansas Citians.

In 1959, Reverend Abel, along with the late Mayor Frank panoramic community long before it was a politically popular issue. It has been said that economic development is the last frontier of the civil rights movement.

Reverend Abel will long be remembered for his social activism and advocacy on behalf of those individuals suffering from poverty, homelessness, and injustice. He fought for the common person and his influence was far reaching, both inside and outside the African American community.

His calling brought him to organize and pastor for the Palestine Missionary Baptist Church of Jesus Christ in January, 1959. His initial congregation consisted of 11 members. His present church membership is in excess of 2,000 members.

In this era where the term “faith based initiatives” is a buzzword on Capitol Hill, Reverend Abel was one who took this phrase to heart, and applied it in the Kansas City community long before it was a politically popular phrase. It has been said that economic development is the last frontier of the civil rights movement. Reverend Abel was quoted in the Kansas City Star, our local newspaper, as saying, “The black churches put ourselves in this role, because we felt the community needed development, and there was nobody to develop it. We’re a church, and part of our mission is to try to provide what the community needs.”

In providing for the community’s needs, he championed the building of Palestine Camp, a $5 million youth summer camp. He also built two housing complexes which house 118 senior citizens called Palestine Gardens, and a $2.5 million activity center.

Rev. Abel attended the University of Kansas and received his Doctorate of Divinity from Western Baptist Bible College. He was appointed by Governor Mel Carnahan to the Appellate Judicial Commission at a time when there were few minority or women representatives on the Missouri Supreme Court and the Court of Appeals.

There are now nine female judges and five African American judges on those benches, including the Chief Justice of the Missouri Supreme Court, Justice Ronnie L. White.

In 2002, he was an inspiration to us all. He has always known that there are few higher callings in life than helping those in need. And we are grateful for him.

Mr. Speaker, please join me in expressing our heartfelt sympathy to his family for their loss.

Mrs. BLACKBURN. Mr. Speaker, it’s not every day that I get the opportunity to recognize someone who has demonstrated tremendous dedication to public service. But today I have just such an opportunity.

Mrs. Blackburn. Mr. Speaker, it’s not every day that I get the opportunity to recognize someone who has demonstrated tremendous dedication to public service. But today I have just such an opportunity.

I ask my colleagues to join me in thanking Carl Brown, Tennessee’s Department of Human Services Assistant Commissioner, for being one of those people who makes government work better.

Carl has served our State for more than 4 decades and he’s done a magnificent job. The thousands of disabled Tennesseans he has helped over the years know exactly what I mean when I say that Carl has lived to serve others. He has always known that there are few higher callings in life than helping those in need. And we are grateful for him.

While I’m thankful for Carl and his service to our State, we will miss his work at the Department of Human Services when he retires this May 2005.

All of us in Tennessee wish Carl and his wife, Mary Frances, a wonderful retirement with their children and grandchildren.

HON. DON YOUNG
OF ALASKA
IN THE HOUSE OF REPRESENTATIVES
Monday, May 23, 2005

Mr. YOUNG of Alaska. Mr. Speaker, today, I am introducing legislation which will correct an injustice to five Southeast Alaska Native villages.

For over 25 years, the Southeast Alaska Villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell have been denied fundamental rights and compensation afforded other Alaska Native villages under the Alaska Native Claims Settlement Act (ANCSA). ANCSA fails to recognize these five villages for the purposes of establishing urban or village corporations under the Act. Consequently, the Alaska Natives from these villages have been denied the rights afforded other Alaska Natives to proper settlement under ANCSA of historical land claims.

A significant number of Natives enrolled at each of the villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell during the original ANCSA process, but they were denied the opportunity to establish village or urban corporations in 1971. Consequently, although Natives enrolled to these villages during the ANCSA process and did become at-large shareholders in the regional corporation for
The Secretary of the Interior would offer, and the Urban Corporation for each community could accept, the surface estate to approximately 23,000 acres of forest lands. Sealaska Corporation, the Native Regional Corporation for Southeast Alaska, would receive title to the subsurface estate to the designated lands.

The Urban Corporations for each community would receive a lump sum payment to be used as start-up funds for the newly established Corporation.

I thank my colleagues and urge your support for this important legislation for five Southeast Alaska communities.

TRIBUTE TO THE LATE MARK ELMORE

HON. DENNIS MOORE
OF KANSAS
IN THE HOUSE OF REPRESENTATIVES
Monday, May 23, 2005

Mr. MOORE of Kansas. Mr. Speaker, I rise today to pay tribute to Mark Elmore of Olathe, who worked and guided Johnson County Developmental Supports, JCDS, for 27 years. Sadly, Mark Elmore died Sunday, May 15, at the age 61. I knew Mark Elmore. He was a great man.

Based in Lenexa, JCDS is a comprehensive community service agency that supports Johnson County people of all ages with mental retardation and other developmental disabilities, along with their families. It provides direct services to more than 500 individuals daily. Elmore joined the agency as executive director in 1978. His leadership moved the agency from a period in the late 1970s, when staff cutbacks were a reality and financial stability was threatened, to the steady growth and fiscal solvency JCDS enjoys today.

Annabeth Surbaugh, chairman of the Johnson County Board of Commissioners, led the Johnson County community in mourning the death of this dedicated and well respected leader. As she stated publicly on learning of his death, Mark Elmore’s commitment to JCDS was total. He took tremendous pride in the accomplishments of JCDS, leading the highly recognized agency through nine consecutive 3-year national accreditation awards. His self-imposed job description included doing whatever was needed to provide the best services and programs to consumers with special needs to enhance their overall quality of life.

Chairman Surbaugh noted that in the early years of developing JCDS, Elmore was known to have taken clients into his own home, to visit them in their homes and at work, and to even shovel snow off sidewalks outside the facility to ensure the safe arrival of both staff and consumers. “Johnson County has lost a great man with a great heart and a great friend. Mark Elmore was a man of high principles. His encouragement, dedication, and compassion for the special-needs community set an example for all of us,” Surbaugh said.

“The heart and soul of JCDS.”

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“The heart and soul of JCDS.”

Sadly, Mark Elmore died Sunday, May 15, 2005, at the age 61. I knew Mark Elmore. He was a great man.
on behalf of the agency in reacting to Elmore’s death. “If you wish to learn how to leave this world a better place, I commend Mark Elmore to you. He was not only a skilled professional, but a man beloved by his family, staff, and the folks he served at JCDS. He gave his heart and mind to this job, and the legacy that is a flourishing agency, whose mission is to enhance the lives of people with disabilities—not a glamour job, but a most satisfying one.” Richardson said. “He made us proud and eager to fulfill this mission. One of his last gifts was to work with the Board to ensure the health of JCDS beyond his term, which came all too soon.”

County Manager Michael B. Press agreed. “His life truly exemplified the spirit of public service: to help the needy, to succor the distressed, and to serve the community without regard to the necessary personal sacrifices required,” he said. “Our hearts and prayers are with his family at this time. He will be missed.”

Mark Elmore is survived by his wife, Jeanette; son and daughter-in-law, Brenton and Kirsten Elmore; daughter and son-in-law, Tracie Moore and Raymond Kaiser; and two grandsons. The couple would have celebrated their 40th anniversary next month.

Mr. Speaker, Johnson County has suffered a tremendous loss with the untimely death of Mark Elmore. I join with all Johnson Countians in mourning Mark Elmore’s passing and place in the CONGRESSIONAL RECORD two articles from the local news media reporting on Mark Elmore’s life and legacy:

[From the Kansas City Star, May 18, 2005] **ADVOCATE FOR THE DISABLED DEAD AT 61**

Mark Elmore, the Olathe man whose dedication to those with developmental disabilities spanned more than three decades, died Sunday of a brain tumor. He was 61.

As executive director of Johnson County Developmental Supports, Elmore helped create landmark legislation in Kansas. The new laws allowed those with mental and physical challenges to live in their own homes and learn life skills vital to landing a job, making friends and finding meaning in life.

“Death came too soon on this job,” said Gayle Richardson, chairwoman of the support group’s board of directors. “His legacy to us is a flourishing agency.”

“Nothing is more fitting,” the adjective Elmore would have chosen 27 years ago.

In 1978, he was hired to turn around the agency facing deep federal cuts that threatened to close its doors.

He streamlined the agency and improved services by listening to parents and their children about their desire to live at home, away from sterile and impersonal institutions. He found money to hire expert workers and expand services.

When Elmore started, the agency served 66 persons. Today, Johnson County Developmental Supports, also known as JCDS, serves 530 clients daily and oversees aid for more than 1,300 residents. Its annual budget is $20 million.

“Johnson County has lost a great friend with a great heart,” said Annabeth Surbaugh, former chairman of the Johnson County Commission. “Mark Elmore was the heart and soul of JCDS.”

In the early years, Elmore was known to take on the home he owned for days and weeks at a time, Surbaugh said.

Those who knew him best describe a tireless, 96-year cheerleader and fund-raiser for the disabled who organized lobbying efforts in Topeka to create new laws and disability programs.

In 1966, he was the first to receive the Distinguished Leadership Award from InterHab, an advocacy group he helped found in 1969. “His life truly exemplified the spirit of public service, helping those who need it most, and support everything fine and noble,” said Mike Press, the county manager.

Outside of his home remodeling, spending time in the Colorado Rocky Mountains and restoring a Model A, Thunderbird and a 1965 Mustang. He had planned to retire this year.

Last week he underwent a biopsy of a spot on his brain. Surgery revealed a tumor more extensive than originally thought. He lapsed into a coma and did not regain consciousness.

He is survived by his wife, Jeanette; son and daughter-in-law, Brenton and Kirsten Elmore; daughter and son-in-law, Tracie Moore and Raymond Kaiser; and two grandsons. The couple would have celebrated their 40th anniversary next month.

[From the Olathe News, May 18, 2005] **LONGTIME COUNTY EXECUTIVE DIRECTOR DIES**

The man who for nearly three decades led a county agency that provides care for people with developmental disabilities has died.

Olathe resident Mark Elmore helped grow Johnson County Developmental Supports and had served as the organization’s executive director since 1978. Elmore, who was 61, died Sunday at Olathe Medical Center.

“Mark was one of the special people that come around once in a lifetime,” said Trish Moore, Elmore’s friend and director of human services and aging for the county. “He believed in what he was doing, and he created programs that will last and help people forever. He left a great legacy.”

Under Elmore’s leadership, JCDS earned three-year national accreditations nine consecutive times and provided services each day to more than 500 people with mental retardation and disabilities.

“He had incredible passion for what he doing,” Moore said. “He had wonderful ethos, as he was the most dedicated person that you would want as a colleague, as a neighbor and as a friend.”

Elmore opened his home to several JCDS clients during the agency’s infancy, said Annabeth Surbaugh, chair of the Johnson County Commission.

“I’ve been here as an elected person for 13 years, and to myself and many people in this county, Mark was Developmental Supports,” Surbaugh said. “He had been there so long, and he was so committed to it that it wasn’t a job. It was his life.”

“If you wish to learn how to leave this world a better place, I commend Mark Elmore,” said state Sen. Dennis Tucker, associate executive director of the support group, who will serve as interim director until a new leader is named.

Memorial contributions to Friends of Johnson County Developmental Supports, 18001 Lackman Road, Lenexa, KS 66219.

**IN RECOGNITION OF NATIONAL TRANSPORTATION WEEK**

**HON. ELIJAH E. CUMMINGS OF MARYLAND**

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. CUMMINGS. Mr. Speaker, as a member of the Transportation and Infrastructure Committee, I rise today, during National Transportation Week, to recognize our remarkable transportation accomplishments and to draw attention to the critical challenges that we now face.

During the half-century that has passed between the first permanent transportation Week in 1962 and this one in 2005, we have created a world-class transportation system that moved our nation forward to the 21st century.

We built an Interstate System that now extends more than 46,000 miles.

We built major subway systems in cities like San Francisco, Washington, DC, and Atlanta.

We created a cabinet-level Department of Transportation.

We created Amtrak to preserve intercity passenger rail service.

And we maintained and expanded a Federal transportation financing system based largely on the collection of gas taxes.

Unfortunately, that system of financing is now breaking down and our forward progress is threatened.

This week, as we celebrate the 43rd annual National Transportation Week, we are 2 years into the effort to reauthorize Federal transportation spending.

Unfortunately, all the proposals currently under consideration fall short of funding our extensive transportation needs.

The transportation reauthorization legislation adopted by the House would provide $284.9 billion, while the bill passed this week by the Senate would provide $295 billion. Both of these funding levels are imperfect compromises.

Chairman YOUNG and Ranking Member OBERSTAR originally introduced the House reauthorization legislation at a funding level of $375 billion.

The Bush Administration has, however, demanded that spending be limited to $284.9 billion—or a figure that is approximately $90 billion below the level of investment that even the Department of Transportation says is needed.

What is the real difference between $375 billion and $285 billion?

It is the difference between merely maintaining a transportation system in which drivers experience nearly 4 billion hours of delay and constructing the new roads and transit facilities necessary to reduce congestion and to save some of the more than 40,000 lives lost on our highways each year.
It is the difference between the 13.5 million jobs that would be supported by $285 billion and the nearly 18 million jobs that would be supported by $375 billion.

To fill the gap between the funding the Federal Government is willing to provide and the funding that is needed, we have created so-called "innovative" financing mechanisms, such as groundwater bonds.

These mechanisms enable states to issue increasing amounts of debt to try to meet the transportation needs that Federal funding is no longer meeting.

As the title of an insightful report issued this year by the Brookings Institution describes it, these are simply short-sighted and unsustainable means of building "Today's Roads with Tomorrow's Dollars."

The Federal Highway Administration reports that at the end of 2003, States had more than $77 billion in total highway related debt outstanding.

As with our growing national debt, States' reliance on debt only shifts the burden of paying for our present transportation infrastructure needs on to future generations.

We are going to confront a time in the not-too-distant future when States will have a back-log of construction projects that cannot be built because states are still paying for the roads they built 15 years ago.

There is no escaping: even if you are on the right track, you'll get run over if you just sit there. The transportation reauthorization bill has now been passed by both the House and the Senate. Our immediate task must be to provide a measure of relief to our States by passing a conference report as soon as possible.

As we approach the end of our sixth extension to TEA-21, we must remember that the more we delay, the less we are able to relieve the burden of debt States are incurring to fund transportation.

REMARKS FOR H.R. 540

HON. TODD TIAHRT
OF KANSAS
IN THE HOUSE OF REPRESENTATIVES
Monday, May 23, 2005

Mr. TIAHRT. Mr. Speaker, I rise today in favor of H.R. 540. This bill would authorize the Equus Beds Aquifer recharge project in my district that will help meet the water needs of nearly 500,000 people in Kansas. This is an environmentally beneficial plan that will help ensure the City of Wichita, surrounding smaller communities, agriculture irrigators and local industry will have a clean and plentiful water supply for decades to come.

I want to thank Chairman Pombo for his leadership in working with me on this important project. Seeking federal authorization for the recharge of the Equus Beds Aquifer is something I have worked on for many years, and I am grateful to the Chairman and his staff for including language contained in my original bill into H.R. 540.

I also want to thank City of Wichita officials for their efforts in helping this project move forward. The vision to ensure our community's water needs are met both now and in the future is extremely important. Leadership from Mayor Carlos Mayans along with City Council members Carl Brewer, Sue Schlapp, Jim Skelton, Paul Gray, Bob Martz and Shar- on Fearley will continue to be needed for this project to be a success.

Wichita Water and Sewer Director David Warren and Water Supply Projects Administrator Gerald Blain have been especially helpful to me and my staff for the years in navigating the details of the recharge project. I appreciate their dedication to public service.

Nearly half a million people depend on the Equus Beds Aquifer and Cheney Reservoir to meet their water needs. Without water from the Equus Beds, Wichita and surrounding communities would face a serious water shortage.

The Equus Beds Aquifer is the body of water beneath portions of Sedgwick, Harvey, McPherson and Reno counties within the boundaries of Groundwater Management District Number 2. The aquifer lies under 900,000 acres, and annual withdrawals from the aquifer average 157,000 acres feet. Approximately 55 percent of the water is used for irrigation; 39 percent is used for municipal needs in Wichita, Haislet, Newton, Hutchinson, McPherson and Valley Center; and six percent is used by local industry.

The Equus Beds Aquifer recharge project involves taking floodwater from the Little Arkansas River and depositing that excess water into the aquifer through water supply wells after going through a saltwater exclusion system.

Since the 1950's, water levels in the aquifer have dropped 40 feet because water rights and pumpage exceed the aquifer's natural recharge rate of six inches per year. Due to this over usage, saltwater from the southwest and oilfield brine from the northwest are threatening the aquifer. When the aquifer levels were higher, the elevated levels created a natural barrier that kept the contamination at bay.

Now that the water levels have dropped, the natural barrier is no longer there. If the aquifer is not replenished, the maximum chloride levels will eventually exceed what is permitted for both agricultural and municipal usage.

This aquifer recharge project is a win-win project for all the communities who depend on its water. The City of Wichita and surrounding municipalities will benefit because water can be safely stored to meet short-term and long-term water supply needs.

Agriculture irrigators also benefit because the risk of saltwater contamination is reduced. Without the natural barrier of an elevated water level in the aquifer, the water would eventually become contaminated to the point where it would be unsuitable for use even on crops. Irrigators should also see reduced costs associated with pumping since the water level will rise.

The Little Arkansas River and its ecosystem benefit. During times of drought, a natural discharge from the Equus Beds Aquifer into the river will occur creating a more stable base flow.

Under the language contained in H.R. 540, the City of Wichita will be required to maintain and operate the recharge project, which ensures the federal government will not bear costs associated with its ongoing operation costs.

Recharging the Equus Beds is the most cost-efficient means to provide water for the greater Wichita area and it is the best option available to keep salt and oilfield brine out of this critical water supply without greatly restricting water usage.

In 2004, Gerald Bain with the City of Wichita testified before the House Committee on Resources on the need for federal authorization of the recharge project. I am including his testimony with my remarks because I think it tells of the water needs faced by our community and the many benefits that will come with a recharge of the Equus Beds.

I urge my colleagues to join me today in voting for H.R. 540. This is a good bill that will greatly benefit the people in south-central Kansas.

The 2004 testimony by Gerald T. Blain, P.E.:

The City of Wichita, Kansas has had water supply wells in the Equus Beds Aquifer for over 60 years, and the aquifer has been a major source of the City's drinking water. However, because of excess pumping from the aquifer by municipal and agricultural users, water levels in the aquifer had declined up to 40 feet from their pre-development levels by 1992. Because of this over development, the Equus Beds aquifer is threatened by saltwater contamination from two sources. One source is natural saltwater from the Arkansas River located along the southwest border of the City's wellfield. The other source is oilfield brine contamination left over from the development of oil wells in the Burrton area in the 1930's, located northwest of the wellfield.

A groundwater monitoring program by the Bureau of Reclamation indicates that the chloride levels, which are an indicator of salinity, could exceed 300 mg/l in much of the wellfield by the year 2050. This would be above the 250 mg/l standard for drinking water. In order to protect the water quality of the area, steps must be taken to retard the movement of the salt-water plumes.

In 1993 the City of Wichita began implementation of a unique Integrated Local Water Supply Plan that is intended to meet the City's water supply needs through the year 2050. By the year 2050 it is projected that the City's water supply needs will almost double what they are now. The City's Plan uses a variety of local water resources to meet water needs, rather than requiring the City to transfer water from a remote reservoir in Northeast Kansas.

A key component of the Plan includes an Aquifer Storage and Recovery (ASR) project to recharge the City's existing wellfield in the Equus Beds Aquifer.

The excess pumping from the aquifer, and the resulting water level decline, has created a storage volume of almost 65 billion gallons that can be used to store water. The basic concept of the City's ASR project is to capture water from the Little Arkansas River and use it to recharge the aquifer.

Computer modeling, and past experience at other sites throughout the country, has found that by recharging the aquifer a hydraulic barrier can be created that would retard the movement of the salt-water plumes. In addition, the 65 billion gallons that could be stored in the dewatered portion of the aquifer could be used as a component of the water supply system for the city.

Unfortunately, all of the "conventional" water rights in the Little Arkansas River have already been allocated. However, excess flows in the river, which occur only after it rains or snows, have not been allocated. Computer modeling has predicted that there are enough days of excess flow that enough water can be captured to allow the aquifer to be recharged and become a valuable component of
the City’s water supply. The modeling predicts that if the City builds an ASR system with the capacity to capture up to 100 million gallons per day, that it would still capture only a fraction of the water flowing down the river, and it would not have a negative impact on the river.

The City intends to capture water from the river using two techniques, either by using “bank storage” wells or by pumping directly from the river. “Bank Storage” wells take advantage of a unique geological condition that occurs along the river. As the river rises above the bank, naturally, water is temporarily stored in the river’s banks, but as the flow in the river declines, the water in the banks discharges back into the river. The City intends to drill wells adjacent to the river that will capture “bank storage” water and induce river water to replace the water pumped.

The City recognized that some of the concepts included in the proposed ASR project have not been done before, so to prove the feasibility of those concepts the City completed a 5-year Demonstration Project. During the Demonstration Project, which was done in partnership with the Bureau of Reclamation and the US Geological Survey, the City constructed a full-scale well adjacent to the Little Arkansas River, a river intake and a water treatment plant, and a variety of recharge facilities. To prove that the recharge project was safe, over 4,000 water samples were collected and analyzed for up to 400 different potential contaminants. During the Demonstration Project over one billion gallons of water were successfully recharged into the aquifer, and the City was able to prove that excess flows in the river could be captured and recharged, and that it can be done without harming the aquifer.

The full-scale ASR project, which will be constructed in phases, will capture and recharge up to 100 million gallons per day, and will cost approximately $375 million. All of the water that will be recharged into the aquifer must meet drinking water standards, and will be monitored and regulated by the Kansas Department of Health and Environment and the U.S. Environmental Protection Agency.

Normally, when surface water is developed from the Equus Beds back into the river.

The City has already implemented some components of the Integrated Local Water Supply Plan, including implementation of a water rate structure designed to reduce water consumption, and a greater emphasis on using water from Cherry Reservoir, and a corresponding reduction in water pumped from the Equus Beds. That alteration in water use has already allowed water levels in the Equus Beds to rise over 20 feet in some areas.

Phase I of the ASR Project, which is currently being designed, will have the capacity to capture and recharge up to 10 million gallons per day of water from the Little Arkansas River by using Bank Storage wells. The location of the first recharge facilities is intended to begin the formation of a hydraulic barrier to the movement of salt-water plume from the Burrito area. It will take almost 10 years to construct the entire full-scale project.

The City believes that this project represents a new approach to developing water resources, while at the same time protecting an existing water resource from contamination.

The City of Wichita and others believe that construction of the Burrton area. It will take almost 10 years to complete the entire full-scale project.

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Americans of German heritage have been, and continue to be, a vital component of the diverse cultural fabric that adorns the entire State of Ohio. Places like the German American Cultural Center are havens of memories and tangible bridges extending to every corner of the world, and are also places of real support and solace for those who still seek them.

Mr. Speaker and Colleagues, please join me in honor and tribute of every member of the Central Ohio Singers Association, past and present. These talented and dedicated singers have culled a legacy of cultural and historical preservation, health and melody and song, warmly reflecting their German heritage. This music of the heart adds color and depth to the American landscape, and serves to uplift our entire community.

STOP THE THEFT OF OUR SOCIAL SECURITY NUMBERS ACT OF 2005

HON. BOB FILNER OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. FILNER. Mr. Speaker, I rise today to introduce the “Stop the Theft of Our Social Security Numbers Act of 2005” (H.R. 2518).

Many of my constituents have alerted me to a serious attack on our personal privacy, and an insidious practice that has become known as identity theft. Amazingly enough, this theft is facilitated by a public agency, the Department of Health and Human Services, which aids and abets this theft not through the Internet or any high-technology means but through the U.S. Postal Service. By including our Social Security numbers on Medicare related mailings, the Department of Health and Human Services places thousands of Medicare beneficiaries at risk of becoming victims of identity theft.

To combat this problem, I have introduced this bill which prohibits the Department of Health and Human Services from including our Social Security numbers on Medicare related mailings. The department mails us every year.

Identity theft is one of the fastest growing crimes of this decade. It creates a nightmare for those who become victims. Identity thieves make off with billions of dollars each year and each day more than 1,000 people are being defrauded. In fact, the Federal Trade Commission recently listed identity theft as the top consumer complaint. With just your name and your Social Security number, a thief can open credit lines worth $10,000, rent apartments, sign up for utilities, and even earn income. Your credit rating is ruined, you risk being rejected for everything from a college loan to a mortgage, and it is up to you to fix it all. Law enforcement will generally not pursue these identity theft cases.

Having your Social Security card number on a Medicare related mailing puts people at a higher risk for identity theft. Mail that is lost or stolen with personally identifiable information like a person’s Social Security number can be used by criminals to steal someone’s identity and commit fraud.

The Department of Health and Human Services has said that the health insurance claim number on Medicare related mailings is a variation of the recipient’s Social Security number, not the actual number. This agency has noted that the number may be based on the Social Security number of a spouse or parent, however, more often than not, the number the agency uses is the person’s Social Security number preceded or followed by a single letter of the alphabet. The agency has said that it has no immediate plans of stopping this practice. The Department of Health and Human Services do to aid the theft of your identity? Give thieves and unscrupulous people your mother’s maiden name?

Not to long ago, we were experiencing the same problem with the mailing labels sent to us. Today it was no way the IRS would change this practice. I found it incomprehensible that neither the agency nor its contractor would change a computer program for booklets that would be mailed out to millions of Americans all over our Nation. After I introduced a bill to require the IRS to stop putting our Social Security numbers on its mailings, the department finally found a way to stop this bad practice.

Many commercial health insurance companies have already taken steps to remove Social Security numbers from all mailings as well as all other forms of client identification. Some States prohibit companies from displaying Social Security numbers internally and assign consumers unique numbers that would appear on Medicare cards. It is time for the Federal government to do its part to stop identity theft and help protect an individual’s personal privacy.

There is no excuse for leaving Medicare beneficiaries vulnerable to identity theft with a thinly disguised Social Security number on Medicare related mailings. My bill will force the Department of Health and Human Services to make this change to protect one of the most precious keys to our personal information, our Social Security number.

IN HONOR AND REMEMBRANCE OF AMBASSADOR MILTON A. WOLF

HON. DENNIS J. KUCINICH OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Milton Wolf, a friend and a great leader in the Greater Cleveland community and around the world. Ambassador Wolf led a multifaceted life that included time as a soldier, meteorologist, educator, real estate developer, fund-raiser, philanthropist, humanitarian, peacemaker, and family man. He grew up in Cleveland’s Glenville neighborhood, the son of Cleveland policeman Sam Wolf and his wife Sylvia. His father worked for a time as a vice detective under Eliot Ness, then the Cleveland safety director.

The outbreak of World War II coincided with Milton’s graduation from Glenville High School. Young Milton enlisted right away into the Army. Serving as both administrators and teachers, Mr. Swafford and Ms. Tunnicliiff retire at the end of this school year. I would like to take this occasion to thank them for their years of promoting education and the youth of Denton. Thanking time to direct the Denton Independent School District, both Tony and Betty established precedence in administrative standards that will not soon be forgotten. Their
combined 56 years of work improved the quality of education in Denton; their excellence in academia influenced lives and molded bright futures. The loyalty in which both Tony Swafford and Betty Tunnicliff served their students and the Denton Independent School District is a testament to their genuine care for America’s youth.

IN HONOR AND RECOGNITION OF CONGRESSMAN SHERROD BROWN OF OHIO

HON. DENNIS J. KUCINICH OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Congressman SHERROD BROWN, for his distinctive service to the people of Ohio’s Thirteenth Congressional District.

Having served in the House for 13 years, Brown has continually been an advocate for the people of Ohio. He has fought for America’s working families by protecting overtime pay, advocating for an increase in the minimum wage, and extending long-term unemployment benefits.

Brown has constantly been a leader in fighting against trade agreements. We have worked together in opposing the Central America Free Trade Agreement. He has shown dedication in opposing this legislation and has made his stance very clear until provisions are added to protect workers, the economy, and the environment. He is persistent on protecting the rights of all workers, not just in northeast Ohio.

Beyond his outstanding service to his constituents, Brown has formed solid bonds with community leaders and agencies in his district. It is easy to see why BROWN is so popular in Northeast Ohio. He has hosted press conferences covering a range of issues—from prescription drugs and the healthcare bill of rights to unemployment compensation extension. In 2002 my colleague received the Distinguished Public Health Legislator of the Year award from the American Public Health Association, the Nation’s largest public health organization.

Brown’s commitment to his constituents is evident in everything he does. He travels to Ohio every weekend to host town hall meetings on social security, attend community events and speak with both college and high school students. He also donated all the proceeds of his latest book, “Myths of Free Trade,” to RESULTS and Cleveland Jobs with Justice, two organizations committed to social and economic justice.

Mr. Speaker and Colleagues, please join me in honor and recognition of one of Ohio’s hardest working and most dedicated Congressmen. His exceptional work on behalf of the people of Northeast Ohio should be an inspiration for all of us. His integrity and expertise has helped him to be a successful Congressman for Ohio’s 13th District.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

SPREE OF HON. TOM COLE OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

The House in Committee of the Whole on the State of the Union had under consideration the bill (H.R. 2930) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes:

Mr. COLE of Oklahoma. Mr. Chairman, I rise today to speak about the need to reform our immigration laws to curtail abuse, make Americans safer, and uphold the rule of law. In short, we need an immigration policy that works for America. Although I will vote against the amendment, by drawing attention to this issue, Congressman TOM TANCREDO is performing an important service.

I supported the REAL ID Act which makes it harder for terrorists to take advantage of our immigration laws. And I have cosponsored legislation, H.R. 98, authored by Chairman DAVID DREIER that would make it harder for employers to hire unauthorized workers.

While I agree with the general intent of this amendment, I must reluctantly oppose the amendment because I believe it would have the unintended consequence of making Americans less safe. Our immigration laws need to be enforced. But denying homeland security funds to local governments, which in turn use the money to prevent future terrorist attacks, is something I cannot support.

Mr. Chairman, in the future I hope we will look at other measures that will encourage local authorities to support and enforce federal immigration laws. Such measures must encourage local compensation without endangering the lives of innocent Americans that we are charged to protect.

IN HONOR OF MAYOR NORMAL MUSIAL

HON. DENNIS J. KUCINICH OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Mayor Norman Musial, upon his retirement as Mayor of the City of North Olmsted. His years of leadership and public service, first as council member and then mayor, are framed by integrity, vision and concern for every resident within this community.

Born in Toledo into a blue collar family, Mayor Musial cultivated a deep appreciation for family, community and hard work. Reflecting personal values of integrity and public service, Mayor Musial’s commitment to the betterment of his community reflects across all levels of government within the City of North Olmsted. As a longtime resident and civic leader in North Olmsted, Mayor Musial has successfully led the effort to improve, uplift, and renew all aspects of the community, including vital areas of safety, residential services, recreation, streets and sidewalks, transportation, and senior citizen programs.

Mayor Musial worked his way through the University of Toledo, and graduated with a degree in engineering in 1954. He transferred from NACA to NASA Lewis Research Center in Cleveland, in 1955. While working at NASA, Mayor Musial attended Cleveland-Marshall Law School and graduated with a law degree. Equipped with an innovative mind and energetic spirit, Mayor Musial worked in the NASA Patent Office, and soon became the Chief Patent Counsel. He became an inventor himself, and holds a patent on the Heat Flux Measuring Device.

Beyond his roles as public servant and beyond a profession that extended from the sciences to law, Mayor Musial continues to hold his family and community closest to his heart. In 1953, he married his wife, Patricia. Together they raised four children: Mark, Jon, Lisa and Todd. Besides inventor, lawyer and elected official, Mayor Musial can list Boy Scout Leader, Indian Guide Leader and Webelos Leader as titles of supreme importance, reflecting the caring and dedication he has for his family.

Mr. Speaker and Colleagues, please join me in offering my good friend, Mayor Norman Musial, our appreciation and admiration on his significant accomplishments within the City of North Olmsted. Moreover, his kind nature and compassion for others has allowed the true spirit of community to flourish within the city limits and beyond its borders. I wish Mayor Musial, his wife Patricia and their children and grandchildren, blessing of peace, strength and happiness, today and throughout the coming years.

SUPPORTING THE PASSAGE OF SPYWARE LEGISLATION

HON. DARRELL E. ISSA OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. ISSA. Mr. Speaker, I rise today in support of H.R. 744 and H.R. 29. Both will help eliminate the monitoring of and tampering with computers across America. I thank Representatives BOB GOODLATTE and MARY BONO for bringing this legislation before us today.

I support the goals of both the “Internet Spyware Prevention Act” and the “Securely Protect Yourself Against Cyber Trespass Act.” Computer users currently lose personal information to the purveyors of malicious computer software that has come to be known as spyware. These bills establish jail terms and severe monetary penalties for various types of invasive actions. Individuals, under the veil of business activity or otherwise, will no longer be able to remotely take control of computers, nor change their settings without.

We have come to depend upon computers in almost every aspect of our lives. An unimaginable amount of personal information sits on computers that must remain secure.

Again, I applaud the efforts of the House Committees on Judiciary and Energy & Commerce.
IN HONOR OF GARY M. KLINGLER

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Air Traffic Manager, Gary M. Klingler, upon the occasion of his retirement after nearly forty years of outstanding federal service with the Cleveland Air Route Traffic Control Center.

In 1970, Mr. Klingler began his career as an air traffic controller at the Youngstown, Ohio Control Tower. He also served as a Navy flight instructor at the Advanced Jet Training Command. Mr. Klingler’s federal service is framed by expertise, integrity and unwavering focus on safety, and has improved standards and procedures in all areas of flight operations in many Airport Control Towers throughout our country, including Flint, Michigan; Jackson, Michigan; Springfield, Ohio; Washington, DC and here in Cleveland, Ohio. Mr. Klingler is the recipient of numerous commendations and awards from the FAA, including the “Manager of the Year” award, “Above and Beyond” award, and the “Wings of Excellence” award. His efforts in enhancing the overall safety at Cleveland Hopkins International Airport were recognized by the White House with a “Hammer Award.” Beyond his professional excellence, Mr. Klingler is an exemplary role model, citizen and friend. His many years of community involvement has enhanced the foundations of our Cleveland community, as well as the communities of Detroit and Saline, Michigan. He has served on many civic boards and organizations, including the Far West Detroit Civic Association and the Cleveland Federal Executive Board, and continues to lend his assistance to others in need.

Mr. Speaker and Colleagues, please join me in offering my friend, Gary M. Klingler, our appreciation and admiration on his significant service and accomplishments with the FAA—an exemplary career that spans nearly forty years. His vision, expertise and focus on air safety has served to enhance the security in our travels across the skies above Cleveland, Ohio, and across the country. Additionally, his concern for the people of his community continues to have a positive impact within many levels of our society. I wish Mr. Klingler and his entire family many blessings of peace, health and happiness, today and throughout the coming years.

TRIBUTE TO JAY VAN DEN BERG

HON. FRED UPTON
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to Jay Van Den Berg, a distinguished community leader in Southwest Michigan for the past 30 years. Today, leaders from throughout the community are gathered at Michigan Works, to honor Jay’s accomplishments and pay homage to a job well done as he is retiring from his numerous leadership posts.

Jay started his career as a teacher, selflessly giving all he had to each of his students, before moving on to a long, industrious career as an executive with the Whirlpool Corporation. Although he was working in the private sector, Jay utilized his leadership to promote academic achievement and excellence in our schools across the region, netting him more than a dozen state and national education awards.

Jay was a tireless advocate for bringing business and education together to create a stronger community. He could always be seen serving in leadership positions throughout Southwest Michigan whether it was with the Business Community, Michigan Business Leaders for Education Excellence, The Michigan Works Workforce Development Board and many others.

Through Jay’s valiant leadership, the HOSTS mentoring program was established in Benton Harbor, and since then hundreds of students improved their reading scores and have been given the opportunity to succeed in school, as well as in life. His tireless work with the career preparation systems in Berrien, Van Buren and Cass Counties have become a national model and continued our young students to raise their test scores, allowing them to seek post-secondary education. These are just 2 of the examples of Jay’s great work with the young people of our community.

Education plays such an important role in the lives of our young people, and it is because of people like Jay Van Den Berg, that many have had the opportunity to succeed. I stand today, with the folks of the great sixth district of Michigan, to give a heartfelt “thank you” to Jay, and wish him a long and enjoyable retirement.

LEGISLATION ON BEHALF OF SC JOHNSON

HON. PAUL RYAN
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. RYAN of Wisconsin. Mr. Speaker, I rise today to introduce legislation on behalf of SC Johnson, a family-owned and family-managed company headquartered in Racine, Wisconsin. The company is a global manufacturer and marketer of a broad range of well known consumer household brands including Windex, Raid, Glade, Pledge, Edge shaving gel, Ziploc and Scrubbing Bubbles. SC Johnson has 12,000 employees worldwide and 3,000 employees located in Racine, WI.

We must help manufacturers like SC Johnson remain competitive in the global marketplace so that good, high-paying manufacturing jobs are retained in Wisconsin and throughout the United States. Over the past few years, our State has lost over 77,000 manufacturing jobs. We must bring down the cost of manufacturing at home so that we can stem the job losses and help companies create new jobs for hard-working Americans.

The 2 bills that I am offering today will help accomplish this important objective by suspending duties for multiple components of unique air freshener products that are imported from abroad and incorporated into finished products made by SC Johnson in the United States. One of the devices is a continuous-action device that pumps fragrance throughout a room. The other device is plugged into an electrical outlet and diffuses warmed fragrance throughout an area. No comparable products are produced in this country. Suspending the tariffs will bring down SC Johnson’s costs of doing business at home and benefit the SC Johnson employees who live and work at the company’s world headquarters in Racine and at other locations throughout the United States.

I look forward to working with my colleagues in Congress to pass this legislation.

HONORING VICE ADMIRAL PHILLIP M. BALISLE, UNITED STATES NAVY

HON. DAN BOREN
OF OKLAHOMA
IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. BOREN. Mr. Speaker, I rise today to honor Vice Admiral Philip M. Balisle, United States Navy, who is retiring after more than 36 years of faithful service to our nation.

A native of Isabel, Oklahoma, Vice Admiral Balisle began his career in 1969 as a Seaman Recruit in the Naval Reserve while attending Oklahoma State University. After attending Officer Candidate School he was commissioned as an Ensign in the United States Navy in 1970.

During the years that followed, Vice Admiral Balisle accrued an impressive operational career highlighted by command of USS KIDD (DDG 993), USS ANZIO (CG 68), Cruiser Destroyer Group THREE and the ABRAHAM LINCOLN Battle Group. Ashore he commanded NAVCOMMSTA United Kingdom and served as Director Theater Air Warfare and Director Surface Warfare on the Chief of Naval Operations’ staff.

Throughout his career Vice Admiral Balisle has been a visionary. Examples of his initiatives and contributions are the conceptualization for establishment of the Afloat Training Group, the Joint Theater and Air Missile Defense Organization, the Joint Single Integrated Air Picture System Engineer Organization, the Navy’s Distributed Engineering Plant, the Distance Support Concept and the Navy Virtual Systems Command. He also was a leader in the development of numerous combat systems programs and initiatives, as well as developing the concept for the Navy’s newest shipbuilding program, the Littoral Combatant Ship.

In his most recent assignment as Commander of the Naval Sea Systems Command, Vice Admiral Balisle led unprecedented organizational change amid a historic time of overall Navy transformation.

Initiating a multi-phased approach to continual command transformation, he directed an unprecedented Headquarters realignment, including the establishment of five radically reshaped Program Executive Offices and the creation of a Warfare Systems Engineering Directorate and a Human Systems Integration Directorate. This realignment resulted in a 20 percent personnel downsizing—done without a single RIF. The Human Systems Integration Directorate is fundamentally changing how the Navy engineers its ships around the Sailor, shaping the new Sea Warrior skills based focus. He also established a disciplined Technical Authority process as a vital NAVSEA mission component.
Vice Admiral Balisle launched a shipyard transformation plan anchored by the “One Shipyard” concept to level-load our nuclear-capable public and private yards, mobilize and share resources, develop common business practices and stabilize the country’s entire ship repair industry as a vital national asset.

He signed as the business model for NAVSEA’s warfare centers that had been in place for decades, shifting from decentralized independent geographically focused business sectors to a corporate national warfare center enterprise. Through these unprecedented corporate realignments, NAVSEA positioned itself to be an agile, responsive organization to meet the unpredictable demands of a long and challenging Global War Against Terror while supporting the development and construction of a transformed 21st Century Navy.

Concurrent and complementary to this organization and business process reshaping, Vice Admiral Balisle introduced to NAVSEA a reinvigorated, disciplined program to establish, preserve and revitalize the workforce and work assignment to support Technical Authority execution, the cornerstone responsibilities of the government to operate safely and as a responsive peer of industry. He significantly changed the Navy’s contracting approach and vehicles for services and ship maintenance with the introduction of a nationwide Seaport services contract and Multi-ship, Multi-option contracts for ship class maintenance availabilities.

Central to all these initiatives, Vice Admiral Balisle established NAVSEA’s Task Force Lean to put in place and accelerate the implementation and expansion of Lean and Six Sigma business processes across the NAVSEA enterprise, achieving dramatic improvements in operating efficiency and process execution.

Vice Admiral Balisle has been a foremost architect in helping to shape the 21st Century Navy to meet the needs of our nation in executing the Global War Against Terrorism and building and equipping tomorrow’s fleet.

He is an individual of uncommon character and his professionalism will be sincerely missed. I am proud, Mr. Speaker, to thank him for his honorable service in the United States Navy, and to wish him “fair winds and following seas” as he closes his distinguished military career.

expected interpretation disrupted an important component of the universal service program for nearly 6 months and resulted in the Universal Service Administrative Company losing millions of dollars in investments that would otherwise have been used to support communications services in rural and high cost areas, as well as to provide adequate program for school districts and libraries.

Congress intervened late last year by temporarily exempting the USF from the Antideficiency Act until December 31, 2005. That exemption will be expiring soon. And many believe the Antideficiency Act also threatens to disrupt the much larger High Cost and Low Income USF programs. It is vital that Congress address this issue as soon as possible to permanently eliminate the uncertainty hanging over the entire USF.

That’s why I am introducing legislation, along with Representative GONZALES, to permanently exempt the USF from the Antideficiency Act. This is a necessary step to ensure that consumers will continue to have access to quality telecommunications services and our schools and libraries will have Internet connectivity, all at affordable rates.

This is a bipartisan initiative that enjoys support from a broad coalition of stakeholders in the telecommunications, high-tech, educational arenas, as well as local governments and public interest organizations. This is a companion measure to a bill introduced in the other body, which also has broad bipartisan support. Fixing the situation is a time-sensitive matter and Representative GONZALES and I urge our colleagues to support this measure and help us work toward prompt passage.

IN HONOR AND REMEMBRANCE OF HOWARD W. BROADBENT

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Howard W. Broadbent, dedicated family man, friend and mentor to many, talented attorney and United States veteran.

Mr. Broadbent was born in Cleveland and graduated from Cleveland Heights High School. His studies at Ohio State University were interrupted for the call to duty during WWII, where he served as a Lieutenant and Amphibious Boat Officer in the United States Navy. After the war, he completed his studies at OSU, and ultimately earned a law degree with honors from Case Western Reserve University Law School.

Mr. Broadbent began working at the law firm of James M. and John J. Carney, and specialized in zoning and real estate. He eventually formed the Carney & Broadbent Law Firm, specializing again in real estate and corporate matters. As an expert regarding zoning issues, Mr. Broadbent was consistently sought out for his advice and opinion by mayors, council representatives and planning and zoning board members from across the county. He also served as law director for Middleburg Heights, served as substitute judge for the Rocky River Municipal Court. Additionally, Mr. Broadbent served on the Board of the Cuyahoga County Port Authority.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Howard W. Broadbent. He was married for fifty-five years to his beloved wife, Dorothy, who passed away in 2003. His friendship, commitment to his family, and his dedicated service to our country will be remembered always. I offer my deep sympathy to his daughter Kitty, and son Jack; his grandson, Douglas; his brother, John, and his many extended family members and friends.

Mr. LEACH. Mr. Speaker, this weekend was marked by the passing of Roy B. Keppy. Roy Keppy was a symbol of Iowa. No family farmer has ever been held in higher esteem. No hog producer has won more honors or been more revered.

Roy’s concerns were always for quality. Whether raising hogs, corn, soy beans or children, his work ethic was the same. Every moment of every day he worked to the best of his ability, and then some more.

While Roy’s formal education ended at J.B. Young Middle School in Davenport, he earned a Ph.D. in life. He was a leader; on the farm, in his community, for his country. At various points in time, he coaxed more corn and beans per acre from his wonderful Scott County soil than anyone in the state, and he raised hogs which won more state and national blue ribbons than anyone in the history of hog competitions.

At the community level, he led, it seemed, every farm organization; at the national level, he headed Farmers for Ford and played a key agricultural role in the election of two presidents named Bush. As for Congress, there is no individual whose advice I respected more; no one to whom I am more indebted.

Two anecdotes stand out. One was a comment the former Secretary of Agriculture Earl Butz made to me. He said one day that the finest cultural speech he ever heard was given by Roy Keppy when it was announced he would lead President Ford’s agricultural team. What was so impressive about this comment was the fact that Earle Butz was generally considered the best public speaker on agriculture in his generation. But he deferred to Roy Keppy.

The second is about the time Roy manipulated a cord in his barn so that when his guest, George W. Bush, was speaking, gentle pieces of corn would fall on his slightly bumbled Secret Service. The Secret Service never understood what a mischievous host the candidate they were assigned to protect had.

Roy’s passing symbolizes the end of an era in Iowa life. As his friends contemplate and, in effect, celebrate, the meaning of his time on earth, we too are obligated to work hard to insure that Roy’s death does not mark the end of a breed. Roy will always stand out, but our country will be diminished if he is the last of the hands-on farmers who by second nature serve those around them then by acclamation of their peers, unrelated to gall or personal ambition, are asked to provide leadership to their country.

Mr. Speaker, Colleagues, please join me in honor and remembrance of Howard W. Broadbent. He was married for fifty-five years to his beloved wife, Dorothy, who passed away in 2003. His friendship, commitment to his family, and his dedicated service to our country will be remembered always. I offer my deep sympathy to his daughter Kitty, and son Jack; his grandson, Douglas; his brother, John, and his many extended family members and friends.

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Mr. Speaker, Colleagues, please join me in honor and remembrance of Howard W. Broadbent. He was married for fifty-five years to his beloved wife, Dorothy, who passed away in 2003. His friendship, commitment to his family, and his dedicated service to our country will be remembered always. I offer my deep sympathy to his daughter Kitty, and son Jack; his grandson, Douglas; his brother, John, and his many extended family members and friends.
Mr. CROWLEY. Mr. Speaker, I rise to recognize the accomplishments of The Motivating Youth to Achievement (My2A) Program and particularly its leader, John Ryu. Based in New York City, My2A was created to serve the needs of young people of New York who happen to be part of the foster care system.

Young people in the foster care system routinely face challenges as they age and move onto their lives outside of foster care. Fortunately, people have come together to encourage these young people to move confidently forward toward their futures, with access to job training, education, and professional employment. Fortunately, for these young people and the communities they serve, we have My2A. My2A has had tremendous success not only in training and encouraging its participants, but in creating well-qualified, thriving employees.

How does such a success story come about? It was through the shared vision of the My2A founder, John Ryu, the Consortium for Worker Education (CWE), the Catholic Home Bureau, and the Central Labor Council. Working together—each with their unique and critical understanding of youth, service, and work—this vision was carried out to fruition. The result is the program that we celebrate here today.

Of course, these results are dependent on the groups and individuals that come together to serve My2A, both through its initial development and through its continual day-to-day efforts. While John Ryu and his partner organizations have been tireless and committed in their efforts, there are other individuals that have also been instrumental. Some of these include Youth Ambassadors of My2A, Sung Eun Baek and Patricia Ji Young Jung, and Kyu Bong Sung, Business Manager of the ACE Printing Company. Overall, the Korean and Korean-American communities have been particularly supportive of My2A. Of course, this program’s success is also dependent on the numerous My2A participants who take advantage of this wonderful opportunity that is made possible by inspirational people like John Ryu and those he works with, protecting the strength and goodwill of our community and this nation in countless ways.

IN MEMORY OF EMERSON BATDORFF

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise to remember Emerson Batdorff, a friend and colleague from my early career in journalism at the Cleveland Plain Dealer. “Bat” was a reporter, columnist, and entertainment editor who started the Plain Dealer’s Friday magazine.

 Fellow Plain Dealer reporter Bill Hickey called him “the ultimate newspaperman.” And he was right. Batdorff, who was inducted into the Cleveland Hall of Fame Press Club, covered police, courts, and other city beats before becoming a fixture in the features department. Bat started his career in journalism before serving in World War II. After the war, he started with the Plain Dealer’s Akron bureau in 1946 before transferring to the Cleveland newsroom in the 1950s.

Computers came easily to him. He was known for waving a red flag to alert editors and reporters when the system was about to crash so that they could save their work. When he became entertainment editor, he had a lot of young writers working for him. He always made the effort to point out their mistakes in a friendly and constructive way. Bat retired from the Plain Dealer in 1984. Emerson Batdorff served in the Army in World War II where he was a platoon leader with the Third Infantry Division, a liaison officer in the 30th Infantry Regiment, and historian with the XV Corps Headquarters in Europe. He received the Bronze Star Medal for valor and a Purple Heart. Bat remained in the Army Reserve and was recalled for duty as a military historian during the Korean War.

In 1977, while in his late 50s, a would-be robber tackled Bat for one late night after work. But Bat, who held a black belt in karate, scared off the attacker with a few deftly executed self-defense moves.

Bat was a past president of the local chapter of the Newspaper Guild. He was also a past president of the Mensa Cleveland chapter.

Mr. Speaker and colleagues, please join me in offering condolences to Bat’s wife Judith, his son Lee, his daughter Ilo, his brother, and his grandchildren.

TRIBUTE TO MR. CHAPIN W. COOK

HON. DALE E. KILDEE
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Monday, May 23, 2005

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to Mr. Chapin W. Cook, who will retire after 33 years of dedicated service to the Genesee County Planning Commission. Friends and family will join civic and community leaders on May 25 to honor his dedication and his many accomplishments.

Chapin Cook joined the Planning Commission in November 1972, operating as Associate Planner. In August 1973, he was promoted to Senior Planner, and in November 1975, he became Principal Planner. Chapin held this position until October 1986, when he was appointed Assistant Director of the Commission, and in July 1990, he became Director, the position he holds to this day.

As Director, Chapin faithfully upheld the Planning Commission’s mission statement: “To provide a framework and encourage development that enhances the quality of life in Genesee County through good government and community partnerships.” He also served as a bridge and guiding force for the Commission’s eleven-member board, helping them fulfill their duties efficiently and effectively.

Mr. Speaker, I ask that all of my colleagues in the House of Representatives join me today in recognizing Chapin W. Cook for his exceptional leadership, and wishing him all the best in retirement and all his future endeavors.

TRIBUTE TO JOHN MATHWIN

HON. CHRIS VAN HOLLEN
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Monday, May 23, 2005

Mr. VAN HOLLEN. Mr. Speaker, I rise today to pay tribute to Mr. John Mathwin, a teacher at Montgomery Blair High School in my Congressional District, who is retiring after a long and distinguished career.

Though Mr. Mathwin will leave Montgomery Blair when this school year closes, his spirit...
today with my colleagues from Nebraska and
and legacy of dedication, hard work, and service will remain.

Mr. Mathwin began his career at Montgomery Blair as an English teacher, but found a more satisfying calling as a journalism instructor. Eventually he became the faculty advisor for Blair's student newspaper Silver Chips.

Under Mathwin's guidance, the student staffers of Silver Chips enjoyed tremendous success. During his tenure, Silver Chips earned countless awards at the local, state, and national level, including the Pacemaker Award as the nation's top newspaper.

Mr. Speaker, on behalf of the students, parents, faculty, and administration of Montgomery Blair High School, I say to Mr. John Mathwin: thank you for your service to our community and our children. You will be missed!

PERSONAL EXPLANATION

HON. TED STRICKLAND
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Monday, May 23, 2005

Mr. STRICKLAND. Mr. Speaker, Thursday, May 19, 2005 I was in Mingo Junction, Ohio and missed rollcall votes No. 190–199. Had I been present, I would have voted "yea" on rollcall votes No. 191, 194, 196, 198 and 199. I would have voted "no" on rollcall votes No. 190, 192, 193, 195 and 197.

BYRNE GRANT FUNDING

HON. GREG WALDEN
OF OREGON
IN THE HOUSE OF REPRESENTATIVES
Monday, May 23, 2005

Mr. WALDEN of Oregon. Mr. Speaker, I rise today with my colleagues from Nebraska and around the country on a most important matter—Byrne Grant funding. I appreciate the leadership of Mr. TERRY and Chairman SOUDER on this issue as well as the work done by my fellow members of the House Meth Caucus to ensure that the needs of state and local communities are being met.

Byrne grants provide necessary federal resources that make possible enforcement and treatment programs undertaken by state and local governments to combat the illegal drug epidemic that is rampant throughout the nation, a plague that I've seen firsthand in communities throughout eastern, central and southern Oregon. Nowhere is the need for federal anti-drug resources more pronounced than in rural areas like Oregon's Second Congressional District, where entire communities struggle to cope with the proliferation of illegal substances and their devastating effects on families and communities.

According to an assessment conducted earlier this year by the Oregon HIDTA office, reducing funding for these programs would reduce interagency cooperation and intelligence sharing between local, state and federal law enforcement agencies. The assessment also found that operations by local taskforces on the front lines in the fight against illegal drugs would decrease by 25 to 75 percent. Without the federal funds received many local drug taskforces in Oregon would have to severely curtail operations, reduce staffing levels or even cease operations completely. Given the threat posed to children, families and communities by illegal drugs, these efforts to control the drug problem must continue.

I want to again state my belief that Byrne Grant funding should be maintained at its current level as the House Appropriations Committee prepares to allocate funds to this and other critical anti-drug programs in the coming year.

The state of Oregon has historically received over $6 million in Byrne grants, a significant portion of which has been allocated to programs and projects in the Second District. Local task forces like the Klamath Interagency Narcotics Team, the Mid-Columbia Interagency Narcotics Task Force, the Central Oregon Drug Enforcement team, the Jackson County Narcotics Enforcement Team, and the Blue Mountain Narcotics Enforcement Team, which receives about one-third of its budget from Byrne Grants, would be devastated without continued support from federal anti-drug programs.

Mr. Speaker, earlier this year I conducted a series of seven town hall forums focused on production, distribution and abuse of illegal drugs, particularly the runaway problem of methamphetamine. While traveling throughout the Second District I heard again and again about the importance of federal resources to the outstanding efforts being conducted by state and local enforcement agencies and treatment and prevention providers. While I realize that we are in a time of strict budget constraint I strongly support these efforts and I will continue to do all I can to ensure that the federal government honors its commitment to fight the scourge of illegal drugs in our communities.

PERSONAL EXPLANATION

HON. JIM GERLACH
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Monday, May 23, 2005

Mr. GERLACH. Mr. Speaker, on May 19, 2005, during consideration of H.R. 2361, I was absent during rollcall number 196. Unfortunately, the vote occurred earlier in the evening than was expected and I was unable to make it to the floor in time to vote. Had I been present, I would have voted "yea" for the Ra-hall-Whitfield amendment.
## Senate Committee Meetings

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1997, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 24, 2005 may be found in the Daily Digest of today’s RECORD.

### MEETINGS SCHEDULED

**MAY 23**

<table>
<thead>
<tr>
<th>Time to be announced</th>
<th>Meeting Details</th>
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| 9:30 a.m. | Energy and Natural Resources  
Business meeting to consider comprehensive energy legislation, focusing on provisions relating to renewable energy, nuclear matters, and studies. |
| 10 a.m. | Agriculture, Nutrition, and Forestry  
To hold hearings to examine the U.S. Grain Standards Act. |
| 11 a.m. | Commission on Security and Cooperation in Europe  
To hold hearings to examine human rights concerns in Kosovo. |
| 2:30 p.m. | Homeland Security and Governmental Affairs  
To hold hearings to examine the nomination of Linda Morrison Combs, of North Carolina, to be Controller, Office of Federal Financial Management, Office of Management and Budget. |
| 9 a.m. | Homeland Security and Governmental Affairs  
Investigations Subcommittee  
To hold hearings to examine security and the 21st century workplace. |
| 9:50 a.m. | Health, Education, Labor, and Pensions  
Business meeting to consider proposed Head Start Improvements For School Readiness Act, S. 518, to provide for the establishment of a controlled substance monitoring program in each State, and pending nominations. |
| 10 a.m. | Banking, Housing, and Urban Affairs  
To hold hearings to examine the nominations of Ben S. Bernanke, of New Jersey, to be a Member of the Council of Economic Advisers, and Brian D. Montgomery, of Texas, to be Assistant Secretary of Housing, Federal Housing Commissioner, Department of Housing and Urban Development. |
| 10 a.m. | Commerce, Science, and Transportation  
To hold hearings to examine S. 366, to amend the Coastal Zone Management Act. |
| 11 a.m. | Indian Affairs  
To hold hearings to examine S.J. Res. 15, to acknowledge a long history of official deprivations and ill-conceived policies by the United States Government regarding American tribes and offer an apology to all Native Peoples on behalf of the United States. |
| 10:30 a.m. | Foreign Relations  
To hold hearings to examine the nominations of Sean Ian McCormack, of the District of Columbia, to be an Assistant Secretary of State for Public Affairs, and Dina Habib Powell, of Texas, to be an Assistant Secretary of State for Educational and Cultural Affairs. |

**MAY 24**

<table>
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| 9:30 a.m. | Energy and Natural Resources  
Business meeting to consider the nominations of David Horton Wilkins, of South Carolina, to be Ambassador to Canada, William Alan Eaton, of Virginia, to be Ambassador to Panama, James M. Derham, of Virginia, to be Ambassador to Guatemala, and Robert Johann Dieter, of Colorado, to be Ambassador to Belize, Paul A. Trivelli, of Virginia, to be Ambassador to Nicaragua, and Linda Jewell, of the District of Columbia, to be Ambassador to Ecuador. |
| 10 a.m. | Foreign Relations  
To hold hearings to examine the nominations of David Horton Wilkins, of South Carolina, to be Ambassador to Canada, William Alan Eaton, of Virginia, to be Ambassador to Panama, James M. Derham, of Virginia, to be Ambassador to Guatemala, and Robert Johann Dieter, of Colorado, to be Ambassador to Belize, Paul A. Trivelli, of Virginia, to be Ambassador to Nicaragua, and Linda Jewell, of the District of Columbia, to be Ambassador to Ecuador. |
| 10:30 a.m. | Appropriations  
To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Commerce. |
| 10 a.m. | Commerce, Science, and Transportation  
Aviation Subcommittee  
To hold hearings to examine aviation capacity and congestion challenges regarding summer 2005 and future demand. |
| 10 a.m. | Banking, Housing, and Urban Affairs  
To hold hearings to examine the report to Congress on international economic and exchange rate policies. |
| 10 a.m. | Health, Education, Labor, and Pensions  
To hold hearings to examine issues relating to the 21st century workplace. |
| 10:30 a.m. | Homeland Security and Governmental Affairs  
To hold hearings to examine federal funding for private research and development, focusing on effectiveness of federal financing of private research and development, and whether some of these programs result in the development of new technologies or displace private investment. |
| 11 a.m. | Appropriations  
To hold hearings to examine the nominations of Rodolphe M. Vallée, of Vermont, to be Ambassador to the Slovak Republic, Molly Hering Bordonaro, of Oregon, to be Ambassador to the Republic of Malta, and Ann Louise Wagner, of Missouri, to be Ambassador to Luxembourg. |
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the U.S. Agency for International Development.

JUNE 7
2:30 p.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings to examine the emergence of China throughout Asia relating to security and economic consequences for the U.S.

JUNE 9
2:30 p.m.
Foreign Relations
Western Hemisphere, Peace Corps and Narcotics Affairs Subcommittee
To hold hearings to examine the Western Hemisphere Initiative regarding safety and convenience in cross-border travel.

SEPTEMBER 20
10 a.m.
Veterans’ Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.
Chamber Action

Routine Proceedings, pages S5715–S5813

Measures Introduced: Twelve bills and four resolutions were introduced, as follows: S. 1096–1107, S. Res. 152–153, and S. Con. Res. 36–37. Page S5778


Page S5778

Measures Passed:

Welcoming President of Afghanistan: Senate agreed to S. Res. 152, welcoming His Excellency Hamid Karzai, the President of Afghanistan, and expressing support for a strong and enduring strategic partnership between the United States and Afghanistan.

Page S5743

State Criminal Alien Assistance Program Reauthorization Act: Senate passed S. 188, to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2005 through 2011 to carry out the State Criminal Alien Assistance Program, after agreeing to the following amendment proposed thereto:

Burns (for Feinstein) Amendment No. 763, to require that certain funds are used for correctional purposes.

Page S5743

Nomination Considered: Senate resumed consideration of the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Pages S5715–43, S5744–75

A unanimous-consent-time agreement was reached providing for further consideration of the nomination at 9:45 a.m., on Tuesday, May 24, 2005; provided further, that at 12 noon, Senate vote on the motion to invoke cloture on the nomination.

Page S5807

During consideration of this nomination today, Senate also took the following action:

By 90 yeas to 1 nay (Vote No. 126), Senate agreed to the motion to instruct the Sergeant at Arms to request the attendance of absent Senators.

Page S5747

Appointments:

NATO Parliamentary Assembly: The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appointed the following Senator as Acting Vice Chairman to the NATO Parliamentary Assembly for the spring meeting in Ljubljana, Slovenia, May 2005: Senator Leahy.

Page S5743

Nominations Received: Senate received the following nominations:

Tome Luce, of Texas, to be Assistant Secretary for Planning, Evaluation, and Policy Development, Department of Education.

Arlene Holen, of the District of Columbia, to be a Member of the Federal Mine Safety and Health Review Commission for a term expiring August 30, 2010.

Rod J. Rosenstein, of Maryland, to be United States Attorney for the District of Maryland for the term of four years.

1 Army nomination in the rank of general.

Page S5813

Measures Read First Time:

Additional Cosponsors:

Statements on Introduced Bills/Resolutions:

Pages S5778–80

Pages S5780–S5807

Additional Statements:

Amendments Submitted:

Quorum Calls: One quorum call was taken today. (Total—3)

Record Votes: One record vote was taken today. (Total—126)

Adjournment: Senate convened at 11:30 a.m. and adjourned at 10:13 p.m. until 9:45 a.m., on Tuesday, May 24, 2005. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S5807.)
Committee Meetings

(Committees not listed did not meet)

INDIVIDUAL ALTERNATIVE MINIMUM TAX

Committee on Finance: Subcommittee on Taxation and IRS Oversight held a hearing to examine the impact of the individual Alternative Minimum Tax (AMT), the separate tax system within the individual income tax system that applies lower tax rates to a broader base of income and a proposal to repeal the AMT, receiving testimony from Robert J. Carroll, Deputy Assistant Secretary of the Treasury for Tax Analysis; Douglas Holtz-Eakin, Director, Congressional Budget Office; Carol C. Markman, Feldman, Meinberg and Company, LLP, Syosset, New York, on behalf of the National Conference of CPA Practitioners; Nina E. Olson, National Taxpayer Service, Leonard E. Ber- man, The Urban Institute Tax Policy Center, and Kevin A. Hassett, American Enterprise Institute, all of Washington, D.C.

Hearing recessed subject to the call.

House of Representatives

Chamber Action

Measures Introduced: 42 public bills, H.R. 2518–2559; and 4 resolutions, H.J. Res. 51; H. Con. Res. 163–164; and H. Res. 292, were introduced. Pages H3767–69

Additional Cosponsors: Page H3769

Reports Filed: Reports were filed today as follows:

Filed on May 20, 2005: H.R. 742, to amend the Occupational Safety and Health Act of 1970 to provide for the award of attorneys’ fees and costs to small employers when such employers prevail in litigation prompted by the issuance of a citation by the Occupational Safety and Health Administration (H. Rept. 109–61, Pt. 2);

Filed on May 20, 2005: H.R. 1815, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2006, amended (H. Rept. 109–89);

H. Res. 243, recognizing the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts to promote National Safe Boating Week (H. Rept. 109–90);

H.R. 2066, to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, amended (H. Rept. 109–91);

H.R. 250, to establish an interagency committee to coordinate Federal manufacturing research and development efforts in manufacturing, strengthen existing programs to assist manufacturing innovation and education, and expand outreach programs for small and medium-sized manufacturers, amended (H. Rept. 109–92);

H.R. 744, to amend title 18, United States Code, to discourage spyware (H. Rept. 109–93);

H. Res. 291, providing for consideration of H.R. 2419, making appropriations for energy and water development for the fiscal year ending September 30, 2006 (H. Rept. 109–94); and

H.R. 2528, making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006 (H. Rept. 109–95).

Speaker: Read a letter from the Speaker wherein he appointed Representative Petri to act as Speaker pro tempore for today.

Recess: The House recessed at 12:43 p.m. and reconvened at 2 p.m.

Suspensions: The House agreed to suspend the rules and pass the following measures:

Stop Counterfeiting in Manufactured Goods Act: H.R. 32, amended, to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks; Pages H3699–H3703

Internet Spyware (I–SPY) Prevention Act of 2005: H.R. 744, amended, to amend title 18, United States Code, to discourage spyware, by a 2⁄3 yea-and-nay vote of 395 yeas to 1 nay, Roll No. 200; Pages H3703–05, H3744

Securely Protect Yourself Against Cyber Trespass Act: H.R. 29, amended, to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, by a 2⁄3 yea-and-nay vote of 393 yeas to 4 nays, Roll No. 201; Pages H3705–12, H3744–45
Heroes Earned Retirement Opportunities Act: H.R. 1499, amended, to amend the Internal Revenue Code of 1986 to allow a deduction to members of the Armed Forces serving in a combat zone for contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income;

Agreed to amend the title so as to read: to amend the Internal Revenue Code of 1986 to allow members of the Armed Forces serving in a combat zone to make contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income.

Angel Island Immigration Station Restoration and Preservation Act: H.R. 606, to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California;

Providing for the conveyance of public land in Clark County, Nevada: H.R. 849, to provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport;

Revoking a Public Land Order regarding Cibola National Wildlife Refuge: H.R. 1101, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California;

General Services Administration Modernization Act: H.R. 2066, amended, to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund;

Celebrating Asian Pacific American Heritage Month: H.R. 280, amended, celebrating Asian Pacific American Heritage Month;

Recognizing the 57th anniversary of the independence of the State of Israel: H. Con. Res. 89, amended, recognizing the 57th anniversary of the independence of the State of Israel, by a 2/3 yea-and-nay vote of 397 yeas with none voting "nay", Roll No. 202;

Honoring the life of Sister Dorothy Stang: H. Con. Res. 89, honoring the life of Sister Dorothy Stang;

Urging the Government of Romania to provide fair restitution to religious communities for property confiscated by the former Communist government in Romania;

Urging the withdrawal of Syrian forces from Lebanon and support for fair democratic elections and rule in Lebanon: H. Res. 273, amended, urging the withdrawal of all Syrian forces from Lebanon, support for free and fair democratic elections in Lebanon, and the development of democratic institutions and safeguards to foster sovereign democratic rule in Lebanon;

Welcoming His Excellency Hamid Karzai, the President of Afghanistan: H. Con. Res. 153, welcoming His Excellency Hamid Karzai, the President of Afghanistan, on the occasion of his visit to the United States in May 2005 and expressing support for a strong and enduring strategic partnership between the United States and Afghanistan;

Recognizing the promotion of National Safe Boating Week: H. Res. 243, recognizing the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts to promote National Safe Boating Week; and

Servicemembers Health Insurance Protection Act of 2005: H.R. 2046, amended, to amend the Servicemembers Civil Relief Act to limit premium increases on reinstated health insurance on servicemembers who are released from active military service.

Suspension—Proceedings Postponed: The House completed debate on the following measure under suspension of the rules. Further consideration will continue tomorrow, May 24.

Business Checking Freedom Act of 2005: H.R. 1224, amended, to repeal the prohibition on the payment of interest on demand deposits.

Recess: The House recessed at 5:32 p.m. and reconvened at 6:31 p.m.

Stem Cell Research Enhancement Act of 2005—Order of Business: The House agreed that (1) it shall be in order at any time without intervention of any point of order to consider H.R. 810, to amend the Public Health Service Act to provide for human embryonic stem cell research; (2) the bill shall be considered as read; (3) the previous question shall be considered as ordered without intervening motion except three hours of debate equally divided, and one motion to recommit; and (4) during consideration of the bill, notwithstanding the operation of
the previous question, the Chair may postpone further consideration to a time designated by the Speaker.

**Senate Message:** Message received from the Senate today appears on pages H3698–99.

**Senate Referrals:** S. Con. Res. 35 was referred to the Committee on International Relations.

**Quorum Calls—Votes:** Three yea-and-nay votes developed during the proceedings today and appear on pages H3744, H3744–45, and H3745–46. There were no quorum calls.

**Adjournment:** The House met at 12:30 p.m. and adjourned at 10:30 p.m.

### Committee Meetings

#### MISCELLANEOUS APPROPRIATIONS

**Committee on Appropriations:** Held a hearing on the following: the House of Representatives, GAO, GPO, the Library of Congress and the Open World Leadership Center. Testimony was heard from Jay M. Eagen III, Chief Administrative Officer, House of Representatives; David M. Walker, Comptroller General, GAO; Bruce R. James, Public Printer, GPO, and James H. Billington, Librarian of Congress and Chairman, Open World Leadership Center.

#### ENERGY AND WATER DEVELOPMENT APPROPRIATIONS FOR FISCAL YEAR 2006

**Committee on Rules:** Granted, by voice vote, an open rule providing 1 hour of general debate on H.R. 2419, making appropriations for energy and water development for the fiscal year ending September 30, 2006, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill. Under the rules of the House the bill shall be read for amendment by paragraph. The rule waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI (prohibiting unauthorized appropriations or legislative provisions in an appropriations bill), except as specified in the resolution. The rule authorizes the Chair to accord priority in recognition to Members who have pre-printed their amendments in the Congressional Record. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representatives Hobson and Visclosky.

**Committee Meetings for Tuesday, May 24, 2005**

(Committee meetings are open unless otherwise indicated)

**Senate**

**Committee on Appropriations:** Subcommittee on Commerce, Justice, and the Judiciary, to hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Justice, 10 a.m., SD–192.

**Committee on Commerce, Science, and Transportation:** to hold hearings to examine S. 529, to designate a United States Anti-Doping Agency and to examine the competitive pressures that lead amateur athletes to use drugs, the sources of such drugs, and the science of doping, 10 a.m., SR–253.

**Committee on Foreign Relations:** to hold hearings to examine the nominations of Eduardo Aguirre, Jr., of Texas, to be Ambassador to Spain and Andorra, Julie Finley, of the District of Columbia, to be U.S. Representative to the Organization for Security and Cooperation in Europe, with the rank of Ambassador, Victoria Nuland, of Connecticut, to be Permanent Representative of the United States of America on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador, and John F. Tefft, of Virginia, to be Ambassador to Georgia, and Craig Roberts Stapleton, of Connecticut, to be Ambassador to France, 9:30 a.m., SD–419.

**Committee on Homeland Security and Governmental Affairs:** Oversight of Government Management, the Federal Workforce, and the District of Columbia, to hold an oversight hearing to examine a review of the U.S. Office of Special Counsel, focusing on safeguarding the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing, 10 a.m., SD–562.

**Subcommittee on Federal Financial Management, Government Information, and International Security:** to hold an oversight hearing to examine the competitive effects of specialty hospitals, 2 p.m., SD–562.

**Select Committee on Intelligence:** to resume hearings to examine the USA Patriot Act (P.L. 107–56), 9:30 a.m., SD–106.

**House**

**Committee on Agriculture:** Subcommittee on General Farm Commodities and Risk Management, hearing to Review the U.S. Grain Standards Act, 10 a.m., 1300 Longworth.

**Committee on Appropriations:** Subcommittee on Defense, executive, to mark up the Fiscal Year 2006 appropriations, 2 p.m., H–140 Capitol.

**Subcommittee on Science, the Departments of State, Justice, and Commerce, and Related Agencies:** to mark up the Fiscal Year 2006 appropriations, 9:30 a.m., H–309 Capitol.

**Committee on Education and the Workforce:** Subcommittee on Select Education, hearing entitled “An Examination of the Older Americans Act,” 10 a.m., 2175 Rayburn.

Committee on Financial Services, Subcommittee on Housing and Community Opportunity and the Subcommittee on Financial Institutions and Consumer Credit, joint hearing entitled “Legislative Solutions to Abusive Mortgage Lending Practices,” 10 a.m., 2128 Rayburn.

Committee on Government Reform, Subcommittee onFederalism and the Census, hearing entitled “Bringing Community Development Block Grant Program (CDBG) Spending into the 21st Century: Introducing Accountability and Meaningful Performance Measures into the Decades-Old CDBG Program,” 10 a.m., 2154 Rayburn.


Committee on Resources, Subcommittee on Fisheries and Oceans, oversight hearing on the Federal Fish Hatchery System, 10 a.m., 1324 Longworth.

Subcommittee on Forests and Forest Health, oversight hearing on Current Obstacles in Biomass Utilization: A GAO Report on Problems Agencies Face in the utilization of Woody Biomass, and the extent to which they are addressing these problems, 3:30 p.m., 1324 Longworth.


Committee on Ways and Means, to mark up H.J. Res. 27, Withdrawing the approval of the United States from the Agreement establishing the World Trade Organization, 10 a.m., 1100 Longworth.

Subcommittee on Select Revenue Measures, hearing on Tax Credits for Electricity Production from Renewable Sources, 2 p.m., 1100 Longworth.

Subcommittee on Social Security, to continue hearings on Protecting and Strengthening Social Security, 2 p.m., B–318 Rayburn.

Permanent Select Committee on Intelligence, executive, to mark up H.R. 2475, Intelligence Authorization Act for Fiscal Year 2006, 12:30 p.m., H–405 Capitol.
Next Meeting of the SENATE
9:45 a.m., Tuesday, May 24

Senate Chamber
Program for Tuesday: Senate will continue consideration of the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit, with a vote on the motion to invoke cloture on the nomination to occur at 12 noon.
(Senate will recess from 12:30 p.m. until 2:15 p.m., for their respective party conferences.)

Next Meeting of the HOUSE OF REPRESENTATIVES
9 a.m., Tuesday, May 24

House Chamber

Extensions of Remarks, as inserted in this issue

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