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House of Representatives

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. BOOZMAN).

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
September 26, 2005.

I hereby appoint the Honorable JOHN BOOZMAN to act as Speaker pro tempore on this day.

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

PRAYER

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

Lord God, of all the seasons of life and of all our days, be with the Members of Congress and all Americans today, especially those in most need of Your presence and care.

September clouds invite the surrender of summer. Enable us, O Lord, to see Your providence at work as leaves and seeds fall to the Earth. You prepare us for the darkening days and ask us to school ourselves in the work at hand. Empower us to let go of any anxious grasp of tenacity, so with open and generous hearts we may share a rich harvest with Rita and Katrina's children.

To You who color our mountains, calm our seas and lift up the sparrow, let there be honor and praise 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. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER 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.

MESSAGE FROM THE SENATE

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

H.R. 2528. An act 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.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2528) ''An act 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,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mrs. HUTCHISON, Mr. BURNS, Mr. CRAIG, Mr. DEWINE, Mr. BROWNBACK, Mr. ALLARD, Mr. MCCONNELL, Mr. COCHRAN, Mrs. FEINSTEIN, Mr. INOUYE, Mr. JOHNSON, Ms. LANDRIEU, Mr. BYRD, Mrs. MURRAY, and Mr. LEAHY, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2744. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2744) ''An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BENNETT, Mr. COCHRAN, Mr. SPECTER, Mr. BOND, Mr. MCCONNELL, Mr. BURNS, Mr. CRAIG, Mr. BROWNBACK, Mr. STEVENS, Mr. KOHL, Mr. HARKIN, Mr. DORGAN, Mrs. FEINSTEIN, Mr. DURBIN, Mr. JOHNSON, Ms. LANDRIEU and Mr. BYRD, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed without amendments bills of the following titles in which the concurrence of the House is requested:

S. 1752. An act to amend the United States Grain Standards Act to reauthorize that Act.

S. 1758. An act to amend the Indian Financing Act of 1974 to provide for sale and assignment of loans and underlying security, and for other purposes.

S. 1764. An act to provide for the continued education of students affected by Hurricane Katrina.

RESIGNATION AS MEMBER AND APPOINTMENT OF MEMBER TO SELECT BIPARTISAN COMMITTEE TO INVESTIGATE THE PREPARATION FOR AND RESPONSE TO HURRICANE KATRINA

The SPEAKER pro tempore laid before the House the following resignation as a member of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 23, 2005.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I hereby resign as a member of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina.

This resignation is made necessary by the fact that most of the Select Committee's hearings will conflict with business of the Committee on the Judiciary, thus making it impossible for me to actively participate in the Select Committee's activities.

Thank you for your confidence in me.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER pro tempore. Pursuant to section 2(a) of House Resolution 437, 109th Congress, and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Member of the House to the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina to fill an existing vacancy thereon:

Mr. MILLER, Florida

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1758. An act to amend the Indian Financing Act of 1974 to provide for sale and assignment of loans and underlying security, and for other purposes, to the Committee on Resources.

S. 1764. An act to provide for the continued education of students affected by Hurricane Katrina; to the Committee on Education and the Workforce; in addition to the Committee on Transportation and Infrastructure and the Committee on the Budget for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3761. Flexibility for Displaced Workers Act.

H.R. 3768. Hurricane Katrina Tax Relief Act of 2005.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. tomorrow for morning hour debates.

There was no objection.

Accordingly (at 2 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, September 27, 2005, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4145. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Lactic Acid, 2-Ethylhexyl Ester; Exemption from the Requirement of a Tolerance [OPP-2003-0230; FRL-7729-5] received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4146. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — S-metolachlor; Pesticide Tolerance [OPP-2004-0326; FRL-7716-1] received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4147. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Amicarbazone; Pesticide Tolerance [OPP-2005-0185; FRL-7736-3] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4148. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Bacillus Thuringiensis Cry34Ab1 and Cry35Ab1 Proteins and the Genetic Material Necessary for Their Production in Corn; Exemption from the Requirement of a Tolerance [OPP-2005-0211; FRL-7735-4] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4149. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Boscalid; Pesticide Tolerances for Emergency Exemptions [OPP-2005-0259; FRL-7737-9] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4150. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Inert Ingredients; Revocation of 34 Pesticide Tolerance Exemptions for 31 Chemicals [OPP-2005-0069; FRL-7737-3] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4151. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Iprovalicarb; Pesticide Tolerance [OPP-2005-0074; FRL-7736-2] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4152. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Lindane; Tolerance Actions [OPP-2004-0246; FRL-7734-3] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4153. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Reynoutria Sachalinensis Extract; Exemption from the Requirement of a Tolerance [OPP-2005-0221; FRL-7730-3] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4154. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Update to Materials Incorporated by Reference [DC102-2050; FRL-7953-9] received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4155. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Arizona; Correction of Redesignation of Phoenix to Attainment for the Carbon Monoxide Standard [R09-OAR-2005-AZ-0003; FRL-7960-8] received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4156. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Tennessee; Redesignation of the Montgomery County, Tennessee Portion of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainment Area to Attainment [R04-OAR-2005-TN-0007- 200527(a) FRL-7973-5] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4157. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planing Purposes; Kentucky; Redesignation of Christian County, Kentucky Portion of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainment Area to Attainment for Ozone [R04-OAR-2005-KY-0001-200521(a); FRL-7972-9] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4158. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Designation of Areas for Air Quality Planning Purposes; Illinois; Lake Calumet PM-10 Redesignation and Maintenance Plan [R05-OAR-2005-IL-0003; FRL-7973-2] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4159. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Designation of Areas for Air Quality Planning Purposes; Illinois; Lyons Township PM-10 Redesignation and Maintenance Plan [R05-OAR-2005-IL-0002; FRL-7972-7] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4160. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) [FRL-79791-8] (RIN: 2050-AE01) received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4161. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units [OAR-2003-0119; FRL-7971-9] (RIN: 2060-AN31) received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4162. A letter from the Architect of the Capitol, transmitting a copy of actions taken on the GAO's report, ''Capitol Power Plant Utility Master Plan,'' pursuant to 31 U.S.C. 720; to the Committee on House Administration.

4163. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulation for Marine Events; Patuxent River, Solomons, Maryland [CGD05-05-090] (RIN: 1625-AA08) received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4164. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Susquehanna River, Port Deposit, MD [CGD05-05-091] (RIN: 1625-AA08) received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4165. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Manasquan River, Manasquan Inlet and Atlantic Ocean, Point Pleasant Beach to Bay Head, NJ, Change of Location [CGD05-05-073] (RIN: 1625-AA08) received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4166. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Protection of Military Cargo, Captain of the Port Zone Puget Sound, WA [CGD13-05-013] (RIN: 1625-AA87) received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4167. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Moving and Fixed Security Zone; Port of Fredericksted, Saint Croix, U.S. Virgin Islands [COTP SAN JUAN 05-002] (RIN: 1625-AA87) received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4168. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL [COTP Mobile-04-057] (RIN: 1625-AA87) received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4169. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL [COTP Mobile-05-007] (RIN: 1625-AA87) received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4170. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — IFR Altitudes; Miscellaneous Amendments [Docket No. 30453; Amdt. No. 456] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4171. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Harmonization of Noise Certification Standards for Propeller-Driven Small Airplanes [Docket No.: FAA-2003-15279; Amendment No. 36-27] (RIN: 2120-AI25) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4172. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Robinson Helicopter Company Model R-22 Series Helicopters [Docket No. FAA-2005-22026; Directorate Identifier 2005-SW-05-AD; Amendment 39-14210; AD 2005-16-05] (RIN: 2120-AA64) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4173. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (formerly Rolls-Royce Deutschland GmbH, formerly BMW Rolls-Royce GmbH) Model BR700-715A1-30, BR700-715B1-30, and BR700-715C1-30 Turbofan Engines [Docket No. FAA-2005-22070; Directorate Identifier 2005-NE-23-AD; Amendment 39-14218; AD 2005-16-12] (RIN: 2120-AA64) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4174. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200, 757-200CB, and 757-200PF Series Airplanes Equipped with Rolls Royce Model RB211 Engines [Docket No. FAA-2005-22054; Directorate Identifier 2005-NM-137-AD; Amendment 39-14216; AD 2005-04-14 R1] (RIN: 2120-AA64) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4175. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200C, 747-200F, 747-300, 747SP, and 747SR Series Airplanes; Equipped With Pratt & Whitney Model JT9D-3 and -7 Series Engines [Docket No. FAA-2005-20325; Directorate Identifier 2003-NM-129-AD; Amendment 39-14217; AD 2005-16-11] (RIN: 2120-AA64) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4176. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Aerospace LP Model Galaxy and Gulfstream 200 Airplanes [Docket No. FAA-2005-22073; Directorate Identifier 2005-NM-140-AD; Amendment 39-14219; AD 2005-16-13] (RIN: 2120-AA64) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4177. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Model G-IV, GIV-X, GV, and GV-SP Series Airplanes [Docket No. FAA-2005-22074; Directorate Identifier 2005-NM-152-AD; Amendment 39-14220; AD 2005-16-14] (RIN: 2120-AA64) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4178. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pilatus Aircraft, Ltd. Models PC-6, PC-6-H1, PC-6-H2, PC-6/350, PC-6/350-H1, PC-6/350-H2, PC-6/A, PC-6/A-H1, PC-6/A-H2, PC-6/B-H2, PC-6/B1-H2, PC-6/B2-H2, PC-6/B2-H4, PC-6/C-H2, and PC-6/C1-H2 Airplanes [Docket No. FAA-2005-20515; Directorate Identifier 2005-CE-09-AD; Amendment 39-14221; AD 2005-17-01] (RIN: 2120-AA64) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4179. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Turbomeca S.A. Arrius 2F Turboshaft Engines [Docket No. FAA-2005-22039; Directorate Identifier 2005-NE-33-AD; Amendment 39-14238; AD 2005-17-17] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4180. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 &440) Airplanes [DOcket No. FAA-2005-22145; Directorate Identifier 2005-NM-148-AD; Amendment 39-14223; AD 2005-17-12] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4181. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A320-111 Airplanes and Model A320-200 Series Airplanes [Docket No. FAA-2005-22142; Directorate Identifier 2005-NM-153-AD; Amendment 39-14228; AD 2205-17-07] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4182. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747, 757, 767, and 777 Series Airplanes [Docket No. FAA-2004-19865; Directorate Identifier 2003-NM-242-AD; Amendment 39-14230; AD 2005-17-09] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4183. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Saab Model SAAB 2000 Airplanes [Docket No. FAA-2005-21341; Directorate Identifier 2003-NM-026-AD; Amendment 39-14231; AD 2005-17-10] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4184. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A321 Series Airplanes [Docket No. FAA-2005-21342; Directorate Identifier 2004-NM-15-AD; Amendment 39-14229; AD 2005-17-08] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4185. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company (GE) CF6-80C2 and CF6-80E1 Turbofan Engines [Docket No. FAA-2004-19144; Directorate Identifier 2003-NE-18-AD; Amendment 39-14226; AD 2005-17-05] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4186. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Turbomeca Artouste III Series Turboshaft Engines [Docket No. FAA-2005-20849; Directorate Identifier 2005-NE-04-AD; Amendment 39-14227; AD 2005-17-06] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4187. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Cessna Aircraft Company Models 525, 525A, and 525B Airplanes [Docket No. FAA-2005-21109; Directorate Identifier 2005-CE-21-AD; Amendment 39-14232; AD 2005-17-11] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4188. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas DC-10-10, DC-10-10F, DC-10-15, DC-10-30, DC-10-30F (KC-10A and KDC-10), DC-10-40, DC-10-40F, MD-10-10F, and MD-10-30F Airplanes; and Model MD-11 and MD-11F Airplanes [Docket No. FAA-2005-20662; Directorate Identifier 2004-NM-191-AD; Amendment 39-14225; AD 2005-17-04] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4189. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777-200 and -300 Series Airplanes [Docket No. FAA-2005-20350; Directorate Identifier 2004-NM-202-AD; Amendment 39-14223; AD 2005-17-02] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4190. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. FAA-2005-20353; Directorate Identifier 2004-NM-255-AD; Amendment 39-14224; AD 2005-17-03] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4191. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Tiger Aircraft LLC Models AA-5, AA-5A, AA-5B, and AG-5B Airplanes [Docket No. FAA-2005-20968; Directorate Identifier 94-CE-15-AD; Amendment 39-14222; AD 95-19-15 R1] (RIN: 2120-AA64) received Septmber 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4192. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Short Brothers Model SD3-60 Airplanes [Docket No. FAA-2005-22168; Directorate Identifier 2005-NM-146-AD; Amendment 39-14234; AD 2005-17-13] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4193. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and B4 Airplanes; Model A300 B4-600, B4-600R, and F4-600R Series Airplanes, and Model A300 C4-605R Variant F Airplanes (Collectively Called A300-600 Series Airplanes); and Model A310-200 and -300 Series Airplanes [Docket No. FAA-2005-20794; Directorate Identifier 2004-NM-172-AD; Amendment 39-14235; AD 2005-17-14] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4194. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330-200, A330-300, A340-200, and A340-300 Series Airplanes; and Model A340-541 and -642 Airplanes [Docket No. FAA-2005-22196; Directorate Identifier 2005-NM-170-AD; Amendment 39-14239; AD 2005-17-18] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BARTON of Texas:

H.R. 3893. A bill to expedite the construction of new refining capacity in the United States, to provide reliable and affordable energy for the American people, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, Armed Services, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ALEXANDER (for himself, Mr. BAKER, Mr. MCCRERY, Mr. JEFFERSON, Mr. BOUSTANY, Mr. JINDAL, and Mr. MELANCON):

H.R. 3894. A bill to provide for waivers under certain housing assistance programs of the Department of Housing and Urban Development to assist victims of Hurricane Katrina in obtaining housing; to the Committee on Financial Services.

By Mr. BAKER (for himself, Mr. JEFFERSON, Mr. ALEXANDER, Mr. BOUSTANY, and Mr. JINDAL):

H.R. 3895. A bill to amend title V of the Housing Act of 1949 to provide rural housing assistance to families affected by Hurricane Katrina; to the Committee on Financial Services.

By Mr. BAKER (for himself, Mr. JEFFERSON, Mr. ALEXANDER, Mr. BOUSTANY, and Mr. JINDAL):

H.R. 3896. A bill to temporarily suspend, for communities affected by Hurricane Katrina, certain requirements under the community development block grant program; to the Committee on Financial Services.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 521: Ms. FOXX.

H.R. 923: Ms. FOXX and Mr. WEXLER.

H.R. 1526: Ms. LINDA T. SÁNCHEZ of California.

H.R. 2533: Mr. DAVIS of Tennessee, Mr. FORTENBERRY, Mr. JACKSON of Illinois, and Mr. GILLMOR.

H.R. 2822: Mr. SODREL.

H.R. 3074: Mr. GINGREY.

H.R. 3076: Mr. MILLER of Florida and Ms. GINNY BROWN-WAITE of Florida.

H.R. 3323: Mr. UDALL of New Mexico, Mr. FORTUÑO, and Mr. ANDREWS.

H.R. 3334: Mr. WALSH, Mr. BERRY, Ms. BERKLEY, Ms. HARMAN, Mr. PALLONE, Mr. RANGEL, Mr. LIPINSKI, Mr. COSTELLO, Mr. GUTIERREZ, Mr. SCHIFF, Mr. SCOTT of Georgia, Mr. DICKS, Ms. LINDA T. SÁNCHEZ of California, Mr. HIGGINS, Ms. WASSERMAN SCHULTZ, Mr. CARDIN, Mr. FATTAH, and Mr. ETHERIDGE.

H.R. 3639: Mr. COSTELLO, Mr. KIRK, Mr. GRIJALVA, and Mr. ROTHMAN.

H.R. 3704: Mr. TANCREDO, Mr. GARY G. MILLER of California, and Mr. DAVIS of Kentucky.

H.R. 3737: Mr. SCHWARZ of Michigan.

H.R. 3748: Mrs. DAVIS of California, Mr. LANTOS, Mr. FILNER, Mr. CONYERS, Mr. BACA, and Mr. PAYNE.

H.R. 3762: Ms. DELAURO, Ms. SCHWARTZ of Pennsylvania, Ms. BERKLEY, Mr. EVANS, Mr. OWENS, Mr. GRIJALVA, Mr. SPRATT, Mr. OBEY, Mr. FITZPATRICK of Pennsylvania, and Mr. GEORGE MILLER of California.

H.R. 3855: Mr. HERGER.

H. Con. Res. 69: Mr. SIMPSON.

H. Con. Res. 173: Mr. RANGEL and Mr. GORDON.

H. Con. Res. 209: Mr. DAVIS of Tennessee, Mr. VAN HOLLEN, Mr. BERMAN, Ms. HERSETH, Mr. SNYDER, Mrs. CHRISTENSEN, Mr. KUHL of New York, Mrs. DRAKE, and Mr. MCGOVERN.

H. Con. Res. 248: Mr. LINCOLN DIAZ-BALART of Florida, Mrs. JONES of Ohio, Mr. REYES, Mr. KENNEDY of Minnesota, Mr. DREIER, Mr. FERGUSON, Mr. MOORE of Kansas, Mr. CASE, Mr. BROWN of Ohio, Mr. MARKEY, Mr. SESSIONS, Mr. ENGEL, Mr. ETHERIDGE, Mr. MEEHAN, Mr. CANNON, Mr. DINGELL, Mr. CLYBURN, Mr. FRANK of Massachusetts, Mr. KING of New York, Mr. BACA, and Mr. BROWN of South Carolina.

H. Res. 325: Mrs. DRAKE.

H. Res. 413: Mr. SOUDER.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3824

OFFERED BY: MR. POMBO

AMENDMENT NO. 1: Strike all after enacting clause and insert the following new text:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Threatened and Endangered Species Recovery Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. AMENDMENT REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to such section or other provision of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 3. DEFINITIONS.

(a) BEST AVAILABLE SCIENTIFIC DATA.—Section 3 (16 U.S.C. 1532) is amended by redesignating paragraphs (2) through (21) in order as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (13), (14), (15), (16), (17), (18), (19), (20), (21), and (22), respectively, and by inserting before paragraph (3), as so redesignated, the following:

''(2)(A) The term 'best available scientific data' means scientific data, regardless of source, that are available to the Secretary at the time of a decision or action for which such data are required by this Act and that the Secretary determines are the most accurate, reliable, and relevant for use in that decision or action.

''(B) Not later than one year after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall issue regulations that establish criteria that must be met to determine which data constitute the best available scientific data for purposes of subparagraph (A).

''(C) If the Secretary determines that data for a decision or action do not comply with the criteria established by the regulations issued under subparagraph (B), do not comply with guidance issued under section 515 of the Treasury and General Government Appropriations Act, 2001 (Public Law 106–554; 114 Stat. 2763A–171) by the Director of the Office of Management and Budget and the Secretary, do not consist of any empirical data, or are found in sources that have not been subject to peer review in a generally acceptable manner—

''(i) the Secretary shall undertake the necessary measures to assure compliance with such criteria or guidance; and

''(ii) the Secretary may—

''(I) secure such empirical data;

''(II) seek appropriate peer review; and

''(III) reconsider the decision or action based on any supplemental or different data provided or any peer review conducted pursuant to this subparagraph.''.

(b) PERMIT OR LICENSE APPLICANT.—Section 3 (16 U.S.C. 1532) is further amended by amending paragraph (13), as so redesignated, to read as follows:

''(13) The term 'permit or license applicant' means, when used with respect to an action of a Federal agency that is subject to section 7(a) or (b), any person that has applied to such agency for a permit or license or for formal legal approval to perform an act.''.

(c) JEOPARDIZE THE CONTINUED EXISTENCE.—Section 3 (16 U.S.C. 1532) is further amended by inserting after paragraph (11) the following:

''(12) The term 'jeopardize the continued existence' means, with respect to an agency action (as that term is defined in section 7(a)(2)), that the action reasonably would be expected to significantly impede, directly or indirectly, the conservation in the long-term of the species in the wild.''.

(d) CONFORMING AMENDMENT.—Section 7(n) (16 U.S.C. 1536(n)) is amended by striking ''section 3(13)'' and inserting ''section 3(14)''.

SEC. 4. DETERMINATIONS OF ENDANGERED SPECIES AND THREATENED SPECIES.

(a) REQUIREMENT TO MAKE DETERMINATIONS.—Section 4 (16 U.S.C. 1533) is amended by striking so much as precedes subsection (a)(3) and inserting the following:

''DETERMINATION OF ENDANGERED SPECIES AND THREATENED SPECIES

''SEC. 4. (a) IN GENERAL.—(1) The Secretary shall by regulation promulgated in accordance with subsection (b) determine whether any species is an endangered species or a threatened species because of any of the following factors:

''(A) The present or threatened destruction, modification, or curtailment of its habitat or range by human activities, competition from other species, drought, fire, or other catastrophic natural causes.

''(B) Overutilization for commercial, recreational, scientific, or educational purposes.

''(C) Disease or predation.

''(D) The inadequacy of existing regulatory mechanisms, including any efforts identified pursuant to subsection (b)(1).

''(E) Other natural or manmade factors affecting its continued existence.

''(2) The Secretary shall use the authority provided by paragraph (1) to determine any distinct population of any species of vertebrate fish or wildlife to be an endangered species or a threatened species only sparingly.''.

(b) BASIS FOR DETERMINATION.—Section 4(b)(1)(A) (16 U.S.C. 1533(b)(1)(A)) is amended—

(1) by striking ''best scientific and commercial data available to him'' and inserting ''best available scientific data''; and

(2) by inserting ''Federal agency, any'' after ''being made by any''.

(c) LISTS.—Section 4(c)(2) (16 U.S.C. 1533(c)(2)) is amended to read as follows:

''(2)(A) The Secretary shall—

''(i) conduct, at least once every 5 years, based on the information collected for the biennial reports to the Congress required by paragraph (3) of subsection (f), a review of all species included in a list that is published pursuant to paragraph (1) and that is in effect at the time of such review; and

''(ii) determine on the basis of such review and any other information the Secretary considers relevant whether any such species should—

''(I) be removed from such list;

''(II) be changed in status from an endangered species to a threatened species; or

''(III) be changed in status from a threatened species to an endangered species.

''(B) Each determination under subparagraph (A)(ii) shall be made in accordance with subsections (a) and (b).''.

SEC. 5. REPEAL OF CRITICAL HABITAT REQUIREMENTS.

(a) REPEAL OF REQUIREMENT.—Section 4(a) (16 U.S.C. 1533(a)) is amended by striking paragraph (3).

(b) CONFORMING AMENDMENTS.—

(1) Section 3 (16 U.S.C. 1532), as amended by section 3 of this Act, is further amended by striking paragraph (6) and by redesignating paragraphs (7) through (22) in order as paragraphs (6) through (21).

(2) Section 4(b) (16 U.S.C. 1533(b)), as otherwise amended by this Act, is further amended by striking paragraph (2), and by redesignating paragraphs (3) through (8) in order as paragraphs (2) through (7), respectively.

(3) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (2), as redesignated by paragraph (2) of this subsection, by striking subparagraph (D).

(4) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (4), as redesignated by paragraph (2) of this subsection, by striking ''determination, designation, or revision referred to in subsection (a)(1) or (3)'' and inserting ''determination referred to in subsection (a)(1)''.

(5) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (7), as redesignated by paragraph (2) of this subsection, by striking ''; and if such regulation'' and all that follows through the end of the sentence and inserting a period.

(6) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended—

(A) in the second sentence—

(i) by inserting ''and'' after ''if any''; and

(ii) by striking '', and specify any'' and all that follows through the end of the sentence and inserting a period; and

(B) in the third sentence by striking '', designations,''.

(7) Section 5 (16 U.S.C. 1534), as amended by section 9(a)(3) of this Act, is further amended in subsection (j)(2) by striking ''section 4(b)(7)'' and inserting ''section 4(b)(6)''.

(8) Section 6(c) (16 U.S.C. 1535(c)), as amended by section 10(1) of this Act, is further amended in paragraph (3) by striking ''section 4(b)(3)(B)(iii)'' each place it appears and inserting ''section 4(b)(2)(B)(iii)''.

(9) Section 7 (16 U.S.C. 1536) is amended—

(A) in subsection (a)(2) in the first sentence by striking ''or result in the destruction or adverse modification of any habitat of such species'' and all that follows through the end of the sentence and inserting a period;

(B) in subsection (a)(4) in the first sentence by striking ''or result'' and all that follows through the end of the sentence and inserting a period; and

(C) in subsection (b)(3)(A) by striking ''or its critical habitat''.

(10) Section 10(j)(2)(C)) (16 U.S.C. 1539(j)(2)(C)), as amended by section 12(c) of this Act, is further amended—

(A) by striking ''that—'' and all that follows through ''(i) solely'' and inserting ''that solely''; and

(B) by striking ''; and'' and all that follows through the end of the sentence and inserting a period.

SEC. 6. PETITIONS AND PROCEDURES FOR DETERMINATIONS AND REVISIONS.

(a) TREATMENT OF PETITIONS.—Section 4(b) (16 U.S.C. 1533(b)) is amended in paragraph (2), as redesignated by section 5(b)(2) of this Act, by adding at the end of subparagraph (A) the following: ''The Secretary shall not make a finding that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted unless the petitioner provides to the Secretary a copy of all information cited in the petition.''.

(b) IMPLEMENTING REGULATIONS.—

(1) PROPOSED REGULATIONS.—Section 4(b) (16 U.S.C. 1533(b)) is amended—

(A) in paragraph (4)(A), as redesignated by section 5(b)(2) of this Act—

(i) in clause (i) by striking '', and'' and inserting a semicolon;

(ii) in clause (ii) by striking ''to the State agency in'' and inserting ''to the Governor of, and the State agency in,'';

(iii) in clause (ii) by striking ''such agency'' and inserting ''such Governor or agency'';

(iv) in clause (ii) by inserting ''and'' after the semicolon at the end; and

(v) by adding at the end the following:

''(iii) maintain, and shall make available, a complete record of all information concerning the determination or revision in the possession of the Secretary, on a publicly accessible website on the Internet, including an index to such information.''; and

(B) by adding at the end the following:

''(8)(A) Information maintained and made available under paragraph (5)(A)(iii) shall include any status review, all information cited in such a status review, all information referred to in the proposed regulation and the preamble to the proposed regulation, and all information submitted to the Secretary by third parties.

''(B) The Secretary shall withhold from public review under paragraph (5)(A)(iii) any information that may be withheld under 552 of title 5, United States Code.''.

(2) FINAL REGULATIONS.—Paragraph (5) of section 4(b) (16 U.S.C. 1533(b)), as amended by section 5(b)(2) of this Act, is further amended—

(A) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

''(i) a final regulation to implement such a determination of whether a species is an endangered species or a threatened species;

''(ii) notice that such one-year period is being extended under subparagraph (B)(i); or

''(iii) notice that the proposed regulation is being withdrawn under subparagraph (B)(ii), together with the finding on which such withdrawal is based.'';

(B) in subparagraph (B)(i) by striking ''subparagraph (A)(i)'' and inserting ''subparagraph (A)'';

(C) in subparagraph (B)(ii) by striking ''subparagraph (A)(i)'' and inserting ''subparagraph (A)''; and

(D) by striking subparagraph (C).

(3) EMERGENCY DETERMINATIONS.—Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended—

(A) in the matter preceding subparagraph (A), by inserting ''with respect to a determination of a species to be an endangered species or a threatened species'' after ''any regulation''; and

(B) in subparagraph (B), by striking ''the State agency in'' and inserting ''the Governor of, and State agency in,''.

SEC. 7. REVIEWS OF LISTINGS AND DETERMINATIONS.

Section 4(c) (16 U.S.C. 1533(c)) is amended by inserting at the end the following:

''(3) Each determination under paragraph (2)(B) shall consider one of the following:

''(A) Except as provided in subparagraph (B) of this paragraph, the criteria in the recovery plan for the species required by section 5(c)(1)(A) or (B).

''(B) If the recovery plan is issued before the criteria required under section 5(c)(1)(A) and (B) are established or if no recovery plan exists for the species, the factors for determination that a species is an endangered species or a threatened species set forth in subsections (a)(1) and (b)(1).

''(C) A finding of fundamental error in the determination that the species is an endangered species, a threatened species, or extinct.

''(D) A determination that the species is no longer an endangered species or threatened species or in danger of extinction, based on an analysis of the factors that are the basis for listing under section 4(a)(1).''.

SEC. 8. SECRETARIAL GUIDELINES; STATE COMMENTS.

Section 4 (16 U.S.C. 1533) is amended—

(1) by striking subsections (f) and (g) and redesignating subsections (h) and (i) as subsections (f) and (g), respectively;

(2) in subsection (f), as redesignated by paragraph (1) of this subsection—

(A) in the heading by striking ''AGENCY'' and inserting ''SECRETARIAL'';

(B) in the matter preceding paragraph (1), by striking ''the purposes of this section are achieved'' and inserting ''this section is implemented'';

(C) by redesignating paragraph (4) as paragraph (5);

(D) in paragraph (3) by striking ''and'' after the semicolon at the end, and by inserting after paragraph (3) the following:

''(4) the criteria for determining best available scientific data pursuant to section 3(2); and''; and

(E) in paragraph (5), as redesignated by subparagraph (C) of this paragraph, by striking ''subsection (f) of this section'' and inserting ''section 5'';

(3) in subsection (g), as redesignated by paragraph (1) of this section—

(A) by inserting ''COMMENTS.—'' before the first sentence;

(B) by striking ''a State agency'' the first place it appears and inserting ''a Governor, State agency, county (or equivalent jurisdiction), or unit of local government'';

(C) by striking ''a State agency'' the second place it appears and inserting ''a Governor, State agency, county (or equivalent jurisdiction), or unit of local government'';

(D) by striking ''the State agency'' and inserting ''the Governor, State agency, county (or equivalent jurisdiction), or unit of local government, respectively''; and

(E) by striking ''agency's''.

SEC. 9. RECOVERY PLANS AND LAND ACQUISITIONS.

(a) IN GENERAL.—Section 5 (16 U.S.C. 1534) is amended—

(1) by redesignating subsections (a) and (b) as subsections (k) and (l), respectively;

(2) in subsection (l), as redesignated by paragraph (1) of this section, by striking ''subsection (a) of this section'' and inserting ''subsection (k)''; and

(3) by striking so much as precedes subsection (k), as redesignated by paragraph (1) of this section, and inserting the following:

''RECOVERY PLANS AND LAND ACQUISITION

''SEC. 5. (a) RECOVERY PLANS.—The Secretary shall, in accordance with this section, develop and implement a plan (in this subsection referred to as a 'recovery plan') for the species determined under section 4(a)(1) to be an endangered species or a threatened species, unless the Secretary finds that such a plan will not promote the conservation and survival of the species.

''(b) DEVELOPMENT OF RECOVERY PLANS.—(1) Subject to paragraphs (2) and (3), the Secretary, in developing recovery plans, shall, to the maximum extent practicable, give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity.

''(2) In the case of any species determined to be an endangered species or threatened species after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall publish a final recovery plan for a species within 2 years after the date the species is listed under section 4(c).

''(3)(A) For those species that are listed under section 4(c) on the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and are described in subparagraph (B) of this paragraph, the Secretary, after providing for public notice and comment, shall—

''(i) not later than 1 year after such date, publish in the Federal Register a priority ranking system for preparing or revising such recovery plans that is consistent with paragraph (1) and takes into consideration the scientifically based needs of the species; and

''(ii) not later than 18 months after such date, publish in the Federal Register a list of such species ranked in accordance with the priority ranking system published under clause (i) for which such recovery plans will be developed or revised, and a tentative schedule for such development or revision.

''(B) A species is described in this subparagraph if—

''(i) a recovery plan for the species is not published under this Act before the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and the Secretary finds such a plan would promote the conservation and survival of the species; or

''(ii) a recovery plan for the species is published under this Act before such date of enactment and the Secretary finds revision of such plan is warranted.

''(C)(i) The Secretary shall, to the maximum extent practicable, adhere to the list and tentative schedule published under subparagraph (A)(ii) in developing or revising recovery plans pursuant to this paragraph.

''(ii) The Secretary shall provide the reasons for any deviation from the list and tentative schedule published under subparagraph (A)(ii), in each report to the Congress under subsection (e).

''(4) The Secretary, using the priority ranking system required under paragraph (3), shall prepare or revise such plans within 10 years after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005.

''(c) PLAN CONTENTS.—(1)(A) Except as provided in subparagraph (E), a recovery plan shall be based on the best available scientific data and shall include the following:

''(i) Objective, measurable criteria that, when met, would result in a determination, in accordance with this section, that the species to which the recovery plan applies be removed from the lists published under section 4(c) or be reclassified from an endangered species to a threatened species.

''(ii) A description of such site-specific or other measures that would achieve the criteria established under clause (i), including such intermediate measures as are warranted to effect progress toward achievement of the criteria.

''(iii) Estimates of the time required and the costs to carry out those measures described under clause (ii), including, to the extent practicable, estimated costs for any recommendations, by the recovery team, or by the Secretary if no recovery team is selected, that any of the areas identified under clause (iv) be acquired on a willing seller basis.

''(iv) An identification of those specific areas that are of special value to the conservation of the species.

''(B) Those members of any recovery team appointed pursuant to subsection (d) with relevant scientific expertise, or the Secretary if no recovery team is appointed, shall, based solely on the best available scientific data, establish the objective, measurable criteria required under subparagraph (A)(i).

''(C)(i) If the recovery team, or the Secretary if no recovery team is appointed, determines in the recovery plan that insufficient best available scientific data exist to determine criteria or measures under subparagraph (A) that could achieve a determination to remove the species from the lists published under section 4(c), the recovery plan shall contain interim criteria and measures that are likely to improve the status of the species.

''(ii) If a recovery plan does not contain the criteria and measures provided for by clause (i) of subparagraph (A), the recovery team for the plan, or by the Secretary if no recovery team is appointed, shall review the plan at intervals of no greater than 5 years and determine if the plan can be revised to contain the criteria and measures required under subparagraph (A).

''(iii) If the recovery team or the Secretary, respectively, determines under clause (ii) that a recovery plan can be revised to add the criteria and measures provided for under subparagraph (A), the recovery team or the Secretary, as applicable, shall revise the recovery plan to add such criteria and measures within 2 years after the date of the determination.

''(D) In specifying measures in a recovery plan under subparagraph (A), a recovery team or the Secretary, as applicable, shall—

''(i) whenever possible include alternative measures; and

''(ii) in developing such alternative measures, the Secretary shall seek to identify,

among such alternative measures of comparable expected efficacy, the alternative measures that are least costly.

''(E) Estimates of time and costs pursuant to subparagraph (A)(iii), and identification of the least costly alternatives pursuant to subparagraph (D)(ii), are not required to be based on the best available scientific data.

''(2) Any area that, immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005, is designated as critical habitat of an endangered species or threatened species shall be treated as an area described in subparagraph (A)(iv) until a recovery plan for the species is developed or the existing recovery plan for the species is revised pursuant to subsection (b)(3).

''(d) RECOVERY TEAMS.—(1) The Secretary shall promulgate regulations that provide for the establishment of recovery teams for development of recovery plans under this section.

''(2) Such regulations shall—

''(A) establish criteria and the process for selecting the members of recovery teams, and the process for preparing recovery plans, that ensure that each team—

''(i) is of a size and composition to enable timely completion of the recovery plan; and

''(ii) includes sufficient representation from constituencies with a demonstrated direct interest in the species and its conservation or in the economic and social impacts of its conservation to ensure that the views of such constituencies will be considered in the development of the plan;

''(B) include provisions regarding operating procedures of and recordkeeping by recovery teams;

''(C) ensure that recovery plans are scientifically rigorous and that the evaluation of costs required by paragraphs (1)(A)(iii) and (1)(D) of subsection (c) are economically rigorous; and

''(D) provide guidelines for circumstances in which the Secretary may determine that appointment of a recovery team is not necessary or advisable to develop a recovery plan for a specific species, including procedures to solicit public comment on any such determination.

''(3) The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to recovery teams appointed in accordance with regulations issued by the Secretary under this subsection.

''(e) REPORTS TO CONGRESS.—(1) The Secretary shall report every two years to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate on the status of all domestic endangered species and threatened species and the status of efforts to develop and implement recovery plans for all domestic endangered species and threatened species.

''(2) In reporting on the status of such species since the time of its listing, the Secretary shall include—

''(A) an assessment of any significant change in the well-being of each such species, including—

''(i) changes in population, range, or threats; and

''(ii) the basis for that assessment; and

''(B) for each species, a measurement of the degree of confidence in the reported status of such species, based upon a quantifiable parameter developed for such purposes.

''(f) PUBLIC NOTICE AND COMMENT.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan.

''(g) STATE COMMENT.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide a draft of such plan and an opportunity to comment on such draft to the Governor of, and State agency in, any State to which such draft would apply. The Secretary shall include in the final recovery plan the Secretary's response to the comments of the Governor and the State agency.

''(h) CONSULTATION TO ENSURE CONSISTENCY WITH DEVELOPMENT PLAN.—(1) The Secretary shall, prior to final approval of a new or revised recovery plan, consult with any pertinent State, Indian tribe, or regional or local land use agency or its designee.

''(2) For purposes of this Act, the term 'Indian tribe' means—

''(A) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

''(B) with respect to Alaska, the Metlakatla Indian Community.

''(i) USE OF PLANS.—(1) Each Federal agency shall consider any relevant best available scientific data contained in a recovery plan in any analysis conducted under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

''(2)(A)(i) The head of any Federal agency may enter into an agreement with the Secretary specifying the measures the agency will carry out to implement a recovery plan.

''(ii) Each such agreement shall be published in draft form with notice and an opportunity for public comment.

''(iii) Each such final agreement shall be published, with responses by the head of the Federal agency to any public comments submitted on the draft agreement.

''(B) Nothing in a recovery plan shall be construed to establish regulatory requirements.

''(j) MONITORING.—(1) The Secretary shall implement a system in cooperation with the States to monitor effectively for not less than five years the status of all species that have recovered to the point at which the measures provided pursuant to this Act are no longer necessary and that, in accordance with this section, have been removed from the lists published under section 4(c).

''(2) The Secretary shall make prompt use of the authority under section 4(b)(7) to prevent a significant risk to the well-being of any such recovered species.''.

(b) RECOVERY PLANS FOR SPECIES OCCUPYING MORE THAN ONE STATE.—Section 6 (16 U.S.C. 1535) is amended by adding at the end the following:

''(j) RECOVERY PLANS FOR SPECIES OCCUPYING MORE THAN ONE STATE.—Any recovery plan under section 5 for an endangered species or a threatened species that occupies more than one State shall identify criteria and actions pursuant to subsection (c)(1) of section 5 for each State that are necessary so that the State may pursue a determination that the portion of the species found in that State may be removed from lists published under section 4(c).''.

(c) THREATENED AND ENDANGERED SPECIES INCENTIVES PROGRAM.—

(1) AGREEMENTS AUTHORIZED.—Section 5 (16 U.S.C. 1534) is further amended by adding at the end the following:

''(m) THREATENED AND ENDANGERED SPECIES INCENTIVES PROGRAM.—(1) The Secretary may enter into species recovery agreements pursuant to paragraph (2) and species conservation contract agreements pursuant to paragraph (3) with persons, other than agencies or departments of the Federal Government or State governments, under which the Secretary is obligated, subject to the availability of appropriations, to make annual payments or provide other compensation to the persons to implement the agreements.

''(2)(A) The Secretary and persons who own or control the use of private land may enter into species recovery agreements with a term of not less than 5 years that meet the criteria set forth in subparagraph (B) and are in accordance with the priority established in subparagraph (C).

''(B) A species recovery agreement entered into under this paragraph by the Secretary with a person—

''(i) shall require that the person shall carry out, on the land owned or controlled by the person, activities that—

''(I) protect and restore habitat for covered species that are species determined to be endangered species or threatened species pursuant to section 4(a)(1);

''(II) contribute to the conservation of one or more covered species; and

''(III) specify and implement a management plan for the covered species;

''(ii) shall specify such a management plan that includes—

''(I) identification of the covered species;

''(II) a description of the land to which the agreement applies; and

''(III) a description of, and a schedule to carry out, the activities under clause (i);

''(iii) shall provide sufficient documentation to establish ownership or control by the person of the land to which the agreement applies;

''(iv) shall include the amounts of the annual payments or other compensation to be provided by the Secretary to the person under the agreement, and the terms under which such payments or compensation shall be provided; and

''(v) shall include—

''(I) the duties of the person;

''(II) the duties of the Secretary;

''(III) the terms and conditions under which the person and the Secretary mutually agree the agreement may be modified or terminated; and

''(IV) acts or omissions by the person or the Secretary that shall be considered violations of the agreement, and procedures under which notice of and an opportunity to remedy any violation by the person or the Secretary shall be given.

''(C) In entering into species recovery agreements under this paragraph, the Secretary shall accord priority to agreements that apply to any areas that are identified in recovery plans pursuant to subsection (c)(1)(A)(iv).

''(3)(A) The Secretary and persons who own private land may enter into species conservation contract agreements with terms of 30 years, 20 years, or 10 years that meet the criteria set forth in subparagraph (B) and standards set forth in subparagraph (D) and are in accordance with the priorities established in subparagraph (C).

''(B) A species conservation contract agreement entered into under this paragraph by the Secretary with a person—

''(i) shall provide that the person shall, on the land owned by the person—

''(I) carry out conservation practices to meet one or more of the goals set forth in clauses (i) through (iii) of subparagraph (C) for one or more covered species, that are species that are determined to be endangered species or threatened species pursuant to section 4(a)(1), species determined to be candidate species pursuant to section 4(b)(3)(B)(iii), or species subject to comparable designations under State law; and

''(II) specify and implement a management plan for the covered species;

''(ii) shall specify such a management plan that includes—

''(I) identification of the covered species;

''(II) a description in detail of the conservation practices for the covered species that the person shall undertake;

''(III) a description of the land to which the agreement applies; and

''(IV) a schedule of approximate deadlines, whether one-time or periodic, for undertaking the conservation practices described pursuant to subclause (II);

''(V) a description of existing or future economic activities on the land to which the agreement applies that are compatible with the conservation practices described pursuant to subclause (II) and generally with conservation of the covered species;

''(iii) shall specify the term of the agreement; and

''(iv) shall include—

''(I) the duties of the person;

''(II) the duties of the Secretary;

''(III) the terms and conditions under which the person and the Secretary mutually agree the agreement may be modified or terminated;

''(IV) acts or omissions by the person or the Secretary that shall be considered violations of the agreement, and procedures under which notice of and an opportunity to remedy any violation by the person or the Secretary shall be given; and

''(V) terms and conditions for early termination of the agreement by the person before the management plan is fully implemented or termination of the agreement by the Secretary in the case of a violation by the person that is not remedied under subclause (IV), including any requirement for the person to refund all or part of any payments received under subparagraph (E) and any interest thereon.

''(C) The Secretary shall establish priorities for the selection of species conservation contract agreements, or groups of such agreements for adjacent or proximate lands, to be entered into under this paragraph that address the following factors:

''(i) The potential of the land to which the agreement or agreements apply to contribute significantly to the conservation of an endangered species or threatened species or a species with a comparable designation under State law.

''(ii) The potential of such land to contribute significantly to the improvement of the status of a candidate species or a species with a comparable designation under State law.

''(iii) The amount of acreage of such land.

''(iv) The number of covered species in the agreement or agreements.

''(v) The degree of urgency for the covered species to implement the conservation practices in the management plan or plans under the agreement or agreements.

''(vi) Land in close proximity to military test and training ranges, installations, and associated airspace that is affected by a covered species.

''(D) The Secretary shall enter into a species conservation contract agreement submitted by a person, if the Secretary finds that the person owns such land or has sufficient control over the use of such land to ensure implementation of the management plan under the agreement.

''(E)(i) Upon entering into a species conservation contract agreement with the Secretary pursuant to this paragraph, a person shall receive the financial assistance provided for in this subparagraph.

''(ii) If the person is implementing fully the agreement, the person shall receive from the Secretary—

''(I) in the case of a 30-year agreement, an annual contract payment in an amount equal to 100 percent of the person's actual costs to implement the conservation practices described in the management plan under the terms of the agreement;

''(II) in the case of a 20-year agreement, an annual contract payment in an amount equal to 80 percent of the person's actual costs to implement the conservation practices described in the management plan under the terms of the agreement; and

''(III) in the case of a 10-year agreement, an annual contract payment in an amount equal to 60 percent of the person's actual costs to implement the conservation practices described in the management plan under the terms of the agreement.

''(iii)(I) If the person receiving contract payments pursuant to clause (ii) receives any other State or Federal funds to defray the cost of any conservation practice, the cost of such practice shall not be eligible for such contract payments.

''(II) Contributions of agencies or organizations to any conservation practice other than the funds described in subclause (I) shall not be considered as costs of the person for purposes of the contract payments pursuant to clause (iii).

''(4)(A) Upon request of a person seeking to enter into an agreement pursuant to this subsection, the Secretary may provide to such person technical assistance in the preparation, and management training for the implementation, of the management plan for the agreement.

''(B) Any State agency, local government, nonprofit organization, or federally recognized Indian tribe may provide assistance to a person in the preparation of a management plan, or participate in the implementation of a management plan, including identifying and making available certified fisheries or wildlife biologists with expertise in the conservation of species for purposes of the preparation or review and approval of management plans for species conservation contract agreements under paragraph (3)(D)(iii).

''(5) Upon any conveyance or other transfer of interest in land that is subject to an agreement under this subsection—

''(A) the agreement shall terminate if the agreement does not continue in effect under subparagraph (B);

''(B) the agreement shall continue in effect with respect to such land, with the same terms and conditions, if the person to whom the land or interest is conveyed or otherwise transferred notifies the Secretary of the person's election to continue the agreement by no later than 30 days after the date of the conveyance or other transfer and the person is determined by the Secretary to qualify to enter into an agreement under this subsection; or

''(C) the person to whom the land or interest is conveyed or otherwise transferred may seek a new agreement under this subsection.

''(6) An agreement under this subsection may be renewed with the mutual consent of the Secretary and the person who entered into the agreement or to whom the agreement has been transferred under paragraph (5).

''(7) The Secretary shall make annual payments under this subsection as soon as possible after December 31 of each calendar year.

''(8) An agreement under this subsection that applies to an endangered species or threatened species shall, for the purpose of section 10(a)(4), be deemed to be a permit to enhance the propagation or survival of such species under section 10(a)(1), and a person in full compliance with the agreement shall be afforded the protection of section 10(a)(4).

''(9) The Secretary, or any other Federal official, may not require a person to enter into an agreement under this subsection as a term or condition of any right, privilege, or benefit, or of any action or refraining from any action, under this Act.''.

(2) Subsection (e)(2) of section 7 (16 U.S.C. 1536) (as redesignated by section 11(d)(2) of this Act) is amended by inserting ''or in an agreement under section 5(m)'' after ''section''.

(d) CONFORMING AMENDMENTS.—

(1) Section 6(d)(1) (16 U.S.C. 1535(d)(1)) is amended by striking ''section 4(g)'' and inserting ''section 5(j)''.

(2) The Marine Mammal Protection Act of 1972 is amended—

(A) in section 104(c)(4)(A)(ii) (16 U.S.C. 1374(c)(4)(A)(ii)) by striking ''section 4(f)'' and inserting ''section 5''; and

(B) in section 115(b)(2) (16 U.S.C. 1383b(b)(2)) by striking ''section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f))'' and inserting ''section 5 of the Endangered Species Act of 1973''.

SEC. 10. COOPERATION WITH STATES AND INDIAN TRIBES.

Section 6 (16 U.S.C. 1535) is further amended—

(1) in subsection (c), by adding at the end the following:

''(3)(A) Any cooperative agreement entered into by the Secretary under this subsection may also provide for development of a program for conservation of species determined to be candidate species pursuant to section 4(b)(3)(B)(iii) or any other species that the State and the Secretary agree is at risk of being determined to be an endangered species or threatened species under section 4(a)(1) in that State. Upon completion of consultation on the agreement pursuant to subsection (e)(2), any incidental take statement issued on the agreement shall apply to any such species, and to the State and any landowners enrolled in any program under the agreement, without further consultation (except any additional consultation pursuant to subsection (e)(2)) if the species is subsequently determined to be an endangered species or a threatened species and the agreement remains an adequate and active program for the conservation of endangered species and threatened species.

''(B) Any cooperative agreement entered into by the Secretary under this subsection may also provide for monitoring or assistance in monitoring the status of candidate species pursuant to section 4(b)(3)(C)(iii) or recovered species pursuant to section 5(j).

''(C) The Secretary shall periodically review each cooperative agreement under this subsection and seek to make changes the Secretary considers necessary for the conservation of endangered species and threatened species to which the agreement applies.

''(4) Any cooperative agreement entered into by the Secretary under this subsection that provides for the enrollment of private lands or water rights in any program established by the agreement shall ensure that the decision to enroll is voluntary for each owner of such lands or water rights.

''(5)(A) The Secretary may enter into a cooperative agreement under this subsection with an Indian tribe in substantially the same manner in which the Secretary may enter into a cooperative agreement with a State.

''(B) For the purposes of this paragraph, the term 'Indian tribe' means—

''(i) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

''(ii) with respect to Alaska, the Metlakatla Indian Community.'';

(2) in subsection (d)(1)—

(A) by striking ''pursuant to subsection (c) of this section'';

(B) by striking ''or to assist'' and all that follows through ''section 5(j)'' and inserting ''pursuant to subsection (c)(1) and (2) or to address candidate species or other species at risk and recovered species pursuant to subsection (c)(3)''; and

(C) in subparagraph (F), by striking ''monitoring the status of candidate species'' and

inserting ''developing a conservation program for, or monitoring the status of, candidate species or other species determined to be at risk pursuant to subsection (c)(3)''; and

(3) in subsection (e)—

(A) by inserting ''(1)'' before the first sentence;

(B) in paragraph (1), as designated by subparagraph (A) of this paragraph, by striking ''at no greater than annual intervals'' and inserting ''every 3 years''; and

(C) by adding at the end the following:

''(2) Any cooperative agreement entered into by the Secretary under subsection (c) shall be subject to section 7(a)(2) through (d) and regulations implementing such provisions only before—

''(A) the Secretary enters into the agreement; and

''(B) the Secretary approves any renewal of, or amendment to, the agreement that—

''(i) addresses species that are determined to be endangered species or threatened species, are not addressed in the agreement, and may be affected by the agreement; or

''(ii) new information about any species addressed in the agreement that the Secretary determines—

''(I) constitutes the best available scientific data; and

''(II) indicates that the agreement may have adverse effects on the species that had not been considered previously when the agreement was entered into or during any revision thereof or amendment thereto.

''(3) The Secretary may suspend any cooperative agreement established pursuant to subsection (c), after consultation with the Governor of the affected State, if the Secretary finds during the periodic review required by paragraph (1) of this subsection that the agreement no longer constitutes an adequate and active program for the conservation of endangered species and threatened species.

''(4) The Secretary may terminate any cooperative agreement entered into by the Secretary under subsection (c), after consultation with the Governor of the affected State, if—

''(A) as result of the procedures of section 7(a)(2) through (d) undertaken pursuant to paragraph (2) of this subsection, the Secretary determines that continued implementation of the cooperative agreement is likely to jeopardize the continued existence of endangered species or threatened species, and the cooperative agreement is not amended or revised to incorporate a reasonable and prudent alternative offered by the Secretary pursuant to section 7(b)(3); or

''(B) the cooperative agreement has been suspended under paragraph (3) of this subsection and has not been amended or revised and found by the Secretary to constitute an adequate and active program for the conservation of endangered species and threatened species within 180 days after the date of the suspension.''.

SEC. 11. INTERAGENCY COOPERATION AND CONSULTATION.

(a) CONSULTATION REQUIREMENT.—Section 7(a) (16 U.S.C. 1536(a)) is amended—

(1) in paragraph (1) in the second sentence, by striking ''endangered species'' and all that follows through the end of the sentence and inserting ''species determined to be endangered species and threatened species under section 4.'';

(2) in paragraph (2)—

(A) in the first sentence by striking ''action'' the first place it appears and all that follows through ''is not'' and inserting ''agency action authorized, funded, or carried out by such agency is not'';

(B) in the first sentence by striking '', unless'' and all that follows through the end of the sentence and inserting a period;

(C) in the second sentence, by striking ''best scientific and commercial data available'' and inserting ''best available scientific data''; and

(D) by inserting ''(A)'' before the first sentence, and by adding at the end the following:

''(B) The Secretary may identify specific agency actions or categories of agency actions that may be determined to meet the standards of this paragraph by alternative procedures to the procedures set forth in this subsection and subsections (b) through (d), except that subsections (b)(4) and (e) may apply only to an action that the Secretary finds, or concurs, does meet such standards, and the Secretary shall suggest, or concur in any suggested, reasonable and prudent alternatives described in subsection (b)(3) for any action determined not to meet such standards. Any such agency action or category of agency actions shall be identified, and any such alternative procedures shall be established, by regulation promulgated prior or subsequent to the date of the enactment of this Act.'';

(3) in paragraph (4)—

(A) by striking ''listed under section 4'' and inserting ''an endangered species or a threatened species''; and

(B) by inserting '', under section 4'' after ''such species''; and

(4) by adding at the end the following:

''(5) Any Federal agency or the Secretary, in conducting any analysis pursuant to paragraph (2), shall consider only the effects of any agency action that are distinct from a baseline of all effects upon the relevant species that have occurred or are occurring prior to the action.''.

(b) OPINION OF SECRETARY.—Section 7(b) (16 U.S.C. 1536(b)) is amended—

(1) in paragraph (1)(B)(i) by inserting ''permit or license'' before ''applicant'';

(2) in paragraph (2) by inserting ''permit or license'' before ''applicant'';

(3) in paragraph (3)(A)—

(A) in the first sentence—

(i) by striking ''Promptly after'' and inserting ''Before'';

(ii) by inserting ''permit or license'' before ''applicant''; and

(iii) by inserting ''proposed'' before ''written statement''; and

(B) by striking all after the first sentence and inserting the following: ''The Secretary shall consider any comment from the Federal agency and the permit or license applicant, if any, prior to issuance of the final written statement of the Secretary's opinion. The Secretary shall issue the final written statement of the Secretary's opinion by providing the written statement to the Federal agency and the permit or license applicant, if any, and publishing notice of the written statement in the Federal Register. If jeopardy is found, the Secretary shall suggest in the final written statement those reasonable and prudent alternatives, if any, that the Secretary believes would not violate subsection (a)(2) and can be taken by the Federal agency or applicant in implementing the agency action. The Secretary shall cooperate with the Federal agency and any permit or license applicant in the preparation of any suggested reasonable and prudent alternatives.'';

(4) in paragraph (4)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(B) by inserting ''(A)'' after ''(4)'';

(C) by striking ''the Secretary shall provide'' and all that follows through ''with a written statement that—'' and inserting the following: ''the Secretary shall include in the written statement under paragraph (3), a statement described in subparagraph (B) of this paragraph.

''(B) A statement described in this subparagraph—''; and

(5) by adding at the end the following:

''(5)(A) Any terms and conditions set forth pursuant to paragraph (4)(B)(iv) shall be roughly proportional to the impact of the incidental taking identified pursuant to paragraph (4) in the written statement prepared under paragraph (3).

''(B) If various terms and conditions are available to comply with paragraph (4)(B)(iv), the terms and conditions set forth pursuant to that paragraph—

''(i) must be capable of successful implementation; and

''(ii) must be consistent with the objectives of the Federal agency and the permit or license applicant, if any, to the greatest extent possible.''.

(c) BIOLOGICAL ASSESSMENTS.—Section 7(c) (16 U.S.C. 1536(c)) is amended—

(1) by striking ''(1)'';

(2) by striking paragraph (2);

(3) in the first sentence, by striking ''which is listed'' and all that follows through the end of the sentence and inserting ''that is determined to be an endangered species or a threatened species, or for which such a determination is proposed pursuant to section 4, may be present in the area of such proposed action.''; and

(4) in the second sentence, by striking ''best scientific and commercial data available'' and inserting ''best available scientific data''.

(d) ELIMINATION OF ENDANGERED SPECIES COMMITTEE PROCESS.—Section 7 (16 U.S.C. 1536) is amended—

(1) by repealing subsections (e), (f), (g), (h), (i), (j), (k), (l), (m), and (n);

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

(3) in subsection (e), as redesignated by paragraph (2) of this subsection—

(A) in the heading, by striking ''EXEMPTION AS PROVIDING''; and

(B) by striking ''such section'' and all that follows through ''(2)'' and inserting ''such section,''; and

(4) in subsection (f), as redesignated by paragraph (2) of this subsection—

(A) in the first sentence, by striking ''is authorized'' and all that follows through ''of this section'' and inserting ''may exempt an agency action from compliance with the requirements of subsections (a) through (d) of this section before the initiation of such agency action,''; and

(B) by striking the second sentence.

SEC. 12. EXCEPTIONS TO PROHIBITIONS.

(a) INCIDENTAL TAKE PERMITS.—Section 10(a)(2) (16 U.S.C. 1539(a)(2)) is amended—

(1) in subparagraph (A) by striking ''and'' after the semicolon at the end of clause (iii), by redesignating clause (iv) as clause (vii), and by inserting after clause (iii) the following:

''(iv) objective, measurable biological goals to be achieved for species covered by the plan and specific measures for achieving such goals consistent with the requirements of subparagraph (B);

''(v) measures the applicant will take to monitor impacts of the plan on covered species and the effectiveness of the plan's measures in achieving the plan's biological goals;

''(vi) adaptive management provisions necessary to respond to all reasonably foreseeable changes in circumstances that could appreciably reduce the likelihood of the survival and recovery of any species covered by the plan; and'';

(2) in subparagraph (B) by striking ''and'' after the semicolon at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following:

''(v) the term of the permit is reasonable, taking into consideration—

''(I) the period in which the applicant can be expected to diligently complete the principal actions covered by the plan;

''(II) the extent to which the plan will enhance the conservation of covered species;

''(III) the adequacy of information underlying the plan;

''(IV) the length of time necessary to implement and achieve the benefits of the plan; and

''(V) the scope of the plan's adaptive management strategy; and''; and

(3) by striking subparagraph (C) and inserting the following:

''(3) Any terms and conditions offered by the Secretary pursuant to paragraph (2)(B) to reduce or offset the impacts of incidental taking shall be roughly proportional to the impact of the incidental taking specified in the conservation plan pursuant to in paragraph (2)(A)(i). This paragraph shall not be construed to limit the authority of the Secretary to require greater than acre-for-acre mitigation where necessary to address the extent of such impacts. In any case in which various terms and conditions are available, the terms and conditions shall be capable of successful implementation and shall be consistent with the objective of the applicant to the greatest extent possible.

''(4)(A) If the holder of a permit issued under this subsection for other than scientific purposes is in compliance with the terms and conditions of the permit, and any conservation plan or agreement incorporated by reference therein, the Secretary may not require the holder, without the consent of the holder, to adopt any new minimization, mitigation, or other measure with respect to any species adequately covered by the permit during the term of the permit, except as provided in subparagraphs (B) and (C) to meet circumstances that have changed subsequent to the issuance of the permit.

''(B) For any circumstance identified in the permit or incorporated document that has changed, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures as are already provided in the permit or incorporated document for such changed circumstance.

''(C) For any changed circumstance not identified in the permit or incorporated document, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures to address such changed circumstance that do not involve the commitment of any additional land, water, or financial compensation not otherwise committed, or the imposition of additional restrictions on the use of any land, water or other natural resources otherwise available for development or use, under the original terms and conditions of the permit or incorporated document.

''(D) The Secretary shall have the burden of proof in demonstrating and documenting, with the best available scientific data, the occurrence of any changed circumstances for purposes of this paragraph.

''(E) All permits issued under this subsection on or after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall contain the assurances contained in subparagraphs (B) through (D) of this paragraph and paragraph (5)(A) and (B). Permits issued under this subsection on or after March 25, 1998, and before the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall be governed by the applicable sections of parts 17.22(b), (c), and (d), and 17.32(b), (c), and (d) of title 50, Code of Federal Regulations, as the same exist on the date of the enactment of the Threatened and Endangered Species Act of 2005.

''(5)(A) The Secretary shall revoke a permit issued under paragraph (2) if the Secretary finds that the permittee is not complying with the terms and conditions of the permit.

''(B) Any permit subject to paragraph (4)(A) may be revoked due to changed circumstances only if—

''(i) the Secretary determines that continuation of the activities to which the permit applies would be inconsistent with the criteria in paragraph (2)(B)(iv);

''(ii) the Secretary provides 60 days notice of revocation to the permittee; and

''(iii) the Secretary is unable to, and the permittee chooses not to, remedy the condition causing such inconsistency.''.

(b) EXTENSION OF PERIOD FOR PUBLIC REVIEW AND COMMENT ON APPLICATIONS.—Section 10(c) (16 U.S.C. 1539(c)) is amended in the second sentence by striking ''thirty'' each place it appears and inserting ''45''.

(c) EXPERIMENTAL POPULATIONS.—Section 10(j) (16 U.S.C. 1539(j)) is amended—

(1) in paragraph (1), by striking ''For purposes'' and all that follows through the end of the paragraph and inserting the following: ''For purposes of this subsection, the term 'experimental population' means any population (including any offspring arising therefrom) authorized by the Secretary for release under paragraph (2), but only when such population is in the area designated for it by the Secretary, and such area is, at the time of release, wholly separate geographically from areas occupied by nonexperimental populations of the same species. For purposes of this subsection, the term 'areas occupied by nonexperimental populations' means areas characterized by the sustained and predictable presence of more than negligible numbers of successfully reproducing individuals over a period of many years.'';

(2) in paragraph (2)(B), by striking ''information'' and inserting ''scientific data''; and

(3) in paragraph (2)(C)(i), by striking ''listed'' and inserting ''determined to be an endangered species or a threatened species''.

(d) WRITTEN DETERMINATION OF COMPLIANCE.—Section 10 (16 U.S.C. 1539) is amended by adding at the end the following:

''(k) WRITTEN DETERMINATION OF COMPLIANCE.—(1) A property owner (in this subsection referred to as a 'requester') may request the Secretary to make a written determination that a proposed use of the owner's property that is lawful under State and local law will comply with section 9(a), by submitting a written description of the proposed action to the Secretary by certified mail.

''(2) A written description of a proposed use is deemed to be sufficient for consideration by the Secretary under paragraph (1) if the description includes—

''(A) the nature, the specific location, the lawfulness under State and local law, and the anticipated schedule and duration of the proposed use, and a demonstration that the property owner has the means to undertake the proposed use; and

''(B) any anticipated adverse impact to a species that is included on a list published under 4(c)(1) that the requestor reasonably expects to occur as a result of the proposed use.

''(3) The Secretary may request and the requestor may supply any other information that either believes will assist the Secretary to make a determination under paragraph (1).

''(4) If the Secretary does not make a determination pursuant to a request under this subsection because of the omission from the request of any information described in paragraph (2), the requestor may submit a subsequent request under this subsection for the same proposed use.

''(5)(A) Subject to subparagraph (B), the Secretary shall provide to the requestor a written determination of whether the proposed use, as proposed by the requestor, will comply with section 9(a), by not later than expiration of the 180-day period beginning on the date of the submission of the request.

''(B) The Secretary may request, and the requestor may grant, a written extension of the period under subparagraph (A).

''(6) If the Secretary fails to provide a written determination before the expiration of the period under paragraph (5)(A) (or any extension thereof under paragraph (5)(B)), the Secretary is deemed to have determined that the proposed use complies with section 9(a).

''(7) This subsection shall not apply with respect to agency actions that are subject to consultation under section 7.

''(8) Any use or action taken by the property owner in reasonable reliance on a written determination of compliance under paragraph (5) or on the application of paragraph (6) shall not be treated as a violation of section 9(a).

''(9) Any determination of compliance under this subsection shall remain effective—

''(A) in the case of a written determination provided under paragraph (5)(A), for the 10-year period beginning on the date the written determination is provided; or

''(B) in the case of a determination that under paragraph (6) the Secretary is deemed to have made, the 5-year period beginning on the first date the Secretary is deemed to have made the determination.

''(10) The Secretary may withdraw a determination of compliance under this section only if the Secretary determines that, because of unforeseen changed circumstances, the continuation of the use to which the determination applies would preclude conservation measures essential to the survival of any endangered species or threatened species. Such a withdrawal shall take effect 10 days after the date the Secretary provides notice of the withdrawal to the requester.

''(11) The Secretary may extend the period that applies under paragraph (5) by up to 180 days if seasonal considerations make a determination impossible within the period that would otherwise apply.''.

(e) NATIONAL SECURITY EXEMPTION.—Section 10 (16 U.S.C. 1539) is further amended by adding at the end the following:

''(l) NATIONAL SECURITY.—The President, after consultation with the appropriate Federal agency, may exempt any act or omission from the provisions of this Act if such exemption is necessary for national security.''.

(f) DISASTER DECLARATION AND PROTECTION.—Section 10 (16 U.S.C. 1539) is further amended by adding at the end the following:

''(m) DISASTER DECLARATION AND PROTECTION.—(1) The President may suspend the application of any provision of this Act in any area for which a major disaster is declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

''(2) The Secretary shall, within one year after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, promulgate regulations regarding application of this Act in the event of an emergency (including circumstances other than a major disaster referred to in paragraph (1)) involving a threat to human health or safety or to property, including regulations—

''(A) determining what constitutes an emergency for purposes of this paragraph; and

''(B) to address immediate threats through expedited consideration under or waiver of any provision of this Act.''.

SEC. 13. PRIVATE PROPERTY CONSERVATION.

Section 13 (consisting of amendments to other laws, which have executed) is amended to read as follows:

''PRIVATE PROPERTY CONSERVATION

''SEC. 13. (a) IN GENERAL.—The Secretary may provide conservation grants (in this section referred to as 'grants') to promote the voluntary conservation of endangered species and threatened species by owners of private property and shall provide financial conservation aid (in this section referred to as 'aid') to alleviate the burden of conservation measures imposed upon private property owners by this Act. The Secretary may provide technical assistance when requested to enhance the conservation effects of grants or aid.

''(b) AWARDING OF GRANTS AND AID.—Grants to promote conservation of endangered species and threatened species on private property—

''(1) may not be used to fund litigation, general education, general outreach, lobbying, or solicitation;

''(2) may not be used to acquire leases or easements of more than 50 years duration or fee title to private property;

''(3) must be designed to directly contribute to the conservation of an endangered species or threatened species by increasing the species' numbers or distribution; and

''(4) must be supported by any private property owners on whose property any grant funded activities are carried out.

''(c) PRIORITY.—Priority shall be accorded among grant requests in the following order:

''(1) Grants that promote conservation of endangered species or threatened species on private property while making economically beneficial and productive use of the private property on which the conservation activities are conducted.

''(2) Grants that develop, promote, or use techniques to increase the distribution or population of an endangered species or threatened species on private property.

''(3) Other grants that promote voluntary conservation of endangered species or threatened species on private property.

''(d) ELIGIBILITY FOR AID.—(1) The Secretary shall award aid to private property owners who—

''(A) received a written determination under section 10(k) finding that the proposed use of private property would not comply with section 9(a); or

''(B) receive notice under section 10(k)(10) that a written determination has been withdrawn.

''(2) Aid shall be in an amount no less than the fair market value of the use that was proposed by the property owner if—

''(A) the owner has foregone the proposed use;

''(B) the owner has requested financial aid—

''(i) within 180 days of the Secretary's issuance of a written determination that the proposed use would not comply with section 9(a); or

''(ii) within 180 days after the property owner is notified of a withdrawal under section 10(k)(10); and

''(C) the foregone use would be lawful under State and local law and the property owner has demonstrated that the property owner has the means to undertake the proposed use.

''(e) DISTRIBUTION OF GRANTS AND AID.—(1) The Secretary shall pay eligible aid—

''(A) within 180 days after receipt of a request for aid unless there are unresolved questions regarding the documentation of the foregone proposed use or unresolved questions regarding the fair market value; or

''(B) at the resolution of any questions concerning the documentation of the foregone use established under subsection (f) or the fair market value established under subsection (g).

''(2) All grants provided under this section shall be paid on the last day of the fiscal year. Aid shall be paid based on the date of the initial request.

''(f) DOCUMENTATION OF THE FOREGONE USE.—Within 30 days of the request for aid, the Secretary shall enter into negotiations with the property owner regarding the documentation of the foregone proposed use through such mechanisms such as contract terms, lease terms, deed restrictions, easement terms, or transfer of title. If the Secretary and the property owner are unable to reach an agreement, then, within 60 days of the request for aid, the Secretary shall determine how the property owner's foregone use shall be documented with the least impact on the ownership interests of the property owner necessary to document the foregone use.

''(g) FAIR MARKET VALUE.—For purposes of this section, the fair market value of the foregone use of the affected portion of the private property, including business losses, is what a willing buyer would pay to a willing seller in an open market. Fair market value shall take into account the likelihood that the foregone use would be approved under State and local law. The fair market value shall be determined within 180 days of the documentation of the foregone use. The fair market value shall be determined jointly by 2 licensed independent appraisers, one selected by the Secretary and one selected by the property owner. If the 2 appraisers fail to agree on fair market value, the Secretary and the property owner shall jointly select a third licensed appraiser whose appraisal within an additional 90 days shall be binding on the Secretary and the private property owner. Within one year after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall promulgate regulations regarding selection of the jointly selected appraisers under this subsection.

''(h) LIMITATION ON AID AVAILABILITY.—Any person receiving aid under this section may not receive additional aid under this section for the same foregone use of the same property and for the same period of time.

''(i) ANNUAL REPORTING.—The Secretary shall by January 15 of each year provide a report of all aid and grants awarded under this section to the Committee on Resources of the House of Representatives and the Environment and Public Works Committee of the Senate and make such report electronically available to the general public on the website required under section 14.''.

SEC. 14. PUBLIC ACCESSIBILITY AND ACCOUNTABILITY.

Section 14 (relating to repeals of other laws, which have executed) is amended to read as follows:

''PUBLIC ACCESSIBILITY AND ACCOUNTABILITY

''SEC. 14. The Secretary shall make available on a publicly accessible website on the Internet—

''(1) each list published under section 4(c)(1);

''(2) all final and proposed regulations and determinations under section 4;

''(3) the results of all 5-year reviews conducted under section 4(c)(2)(A);

''(4) all draft and final recovery plans issued under section 5(a), and all final recovery plans issued and in effect under section 4(f)(1) of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005;

''(5) all reports required under sections 5(e) and 16, and all reports required under sections 4(f)(3) and 18 of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005; and

''(6) data contained in the reports referred to in paragraph (5) of this section, and that were produced after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005, in the form of databases that may be searched by the variables included in the reports.''.

SEC. 15. ANNUAL COST ANALYSES.

(a) ANNUAL COST ANALYSES.—Section 18 (16 U.S.C. 1544) is amended to read as follows:

''ANNUAL COST ANALYSIS BY UNITED STATES FISH AND WILDLIFE SERVICE

''SEC. 18. (a) IN GENERAL.—On or before January 15 of each year, the Secretary shall submit to the Congress an annual report covering the preceding fiscal year that contains an accounting of all reasonably identifiable expenditures made primarily for the conservation of species included on lists published and in effect under section 4(c).

''(b) SPECIFICATION OF EXPENDITURES.—Each report under this section shall specify—

''(1) expenditures of Federal funds on a species-by-species basis, and expenditures of Federal funds that are not attributable to a specific species;

''(2) expenditures by States for the fiscal year covered by the report on a species-by-species basis, and expenditures by States that are not attributable to a specific species; and

''(3) based on data submitted pursuant to subsection (c), expenditures voluntarily reported by local governmental entities on a species-by-species basis, and such expenditures that are not attributable to a specific species.

''(c) ENCOURAGEMENT OF VOLUNTARY SUBMISSION OF DATA BY LOCAL GOVERNMENTS.—The Secretary shall provide a means by which local governmental entities may—

''(1) voluntarily submit electronic data regarding their expenditures for conservation of species listed under section 4(c); and

''(2) attest to the accuracy of such data.''.

(b) ELIGIBILITY OF STATES FOR FINANCIAL ASSISTANCE.—Section 6(d) (16 U.S.C. 1535(d)) is amended by adding at the end the following:

''(3) A State shall not be eligible for financial assistance under this section for a fiscal year unless the State has provided to the Secretary for the preceding fiscal year information regarding the expenditures referred to in section 16(b)(2).''.

SEC. 16. REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES.

The Endangered Species Act of 1973 is further amended—

(1) by striking sections 15 and 16;

(2) by redesignating sections 17 and 18 as sections 15 and 16, respectively; and

(3) by adding after section 16, as so redesignated, the following:

''REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES

''SEC. 17. (a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may reimburse the owner of livestock for any loss of livestock resulting from depredation by any population of a species if the population is listed under section 4(c) and includes or derives from members of the species that were reintroduced into the wild.

''(b) ELIGIBILITY FOR AND AMOUNT.—Eligibility for, and the amount of, reimbursement under this section shall not be conditioned on the presentation of the body of any animal for which reimbursement is sought.

''(c) LIMITATION ON REQUIREMENT TO PRESENT BODY.—The Secretary may not require the owner of livestock to present the body of individual livestock as a condition of payment of reimbursement under this section.

''(d) USE OF DONATIONS.—The Secretary may accept and use donations of funds to pay reimbursement under this section.

''(e) AVAILABILITY OF APPROPRIATIONS.—The requirement to pay reimbursement under this section is subject to the availability of funds for such payments.''.

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—The Endangered Species Act of 1973 is further amended by adding at the end the following:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 18. (a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, other than section 8A(e)—

''(1) to the Secretary of the Interior to carry out functions and responsibilities of the Department of the Interior under this Act, such sums as are necessary for fiscal years 2006 through 2010; and

''(2) to the Secretary of Agriculture to carry out functions and responsibilities of the Department of the Interior with respect to the enforcement of this Act and the convention which pertain the importation of plants, such sums as are necessary for fiscal year 2006 through 2010.

''(b) CONVENTION IMPLEMENTATION.—There is authorized to be appropriated to the Secretary of the Interior to carry out section 8A(e) such sums as are necessary for fiscal years 2006 through 2010.''.

(b) CONFORMING AMENDMENT.—Section 8(a) (16 U.S.C. 1537(a)) is amended by striking ''section 15'' and inserting ''section 18''.

SEC. 18. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) INTERNATIONAL COOPERATION.—Section 8 (16 U.S.C. 1537) is amended—

(1) in subsection (a) in the first sentence by striking ''any endangered species or threatened species listed'' and inserting ''any species determined to be an endangered species or a threatened species''; and

(2) in subsection (b) in paragraph (1), by striking ''endangered species and threatened species listed'' and inserting ''species determined to be endangered species and threatened species''.

(b) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—Section 8A (16 U.S.C. 1537a)) is amended—

(1) in subsection (a), by striking ''of the Interior (hereinafter in this section referred to as the 'Secretary')'';

(2) in subsection (d), by striking ''Merchant Marine and Fisheries'' and inserting ''Resources''; and

(3) in subsection (e)—

(A) in paragraph (1), by striking ''of the Interior (hereinafter in this subsection referred to as the 'Secretary')''; and

(B) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(c) PROHIBITED ACTS.—Section 9 (16 U.S.C. 1538) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking ''of this Act, with respect to any endangered species of fish or wildlife listed pursuant to section 4 of this Act'' and inserting '', with respect to any species of fish or wildlife determined to be an endangered species under section 4'';

(B) in paragraph (1)(G), by striking ''threatened species of fish or wildlife listed pursuant to section 4 of this Act'' and inserting ''species of fish or wildlife determined to be a threatened species under section 4'';

(C) in paragraph (2), in the matter preceding subparagraph (A) by striking ''of this Act, with respect to any endangered species of plants listed pursuant to section 4 of this Act'' and inserting '', with respect to any species of plants determined to be an endangered species under section 4''; and

(D) in paragraph (2)(E), by striking ''listed pursuant to section 4 of this Act'' and inserting ''determined to be a threatened species under section 4'';

(2) in subsection (b)—

(A) by striking ''(1)'' before ''SPECIES'' and inserting ''(1)'' before the first sentence;

(B) in paragraph (1), in the first sentence, by striking ''adding such'' and all that follows through '': *Provided*, That'' and inserting ''determining such fish or wildlife species to be an endangered species or a threatened species under section 4, if''; and

(C) in paragraph (1), in the second sentence, by striking ''adding such'' and all that follows through ''this Act'' and inserting ''determining such fish or wildlife species to be an endangered species or a threatened species under section 4'';

(3) in subsection (c)(2)(A), by striking ''an endangered species listed'' and inserting ''a species determined to be an endangered species'';

(4) in subsection (d)(1)(A), by striking clause (i) and inserting the following: ''(i) are not determined to be endangered species or threatened species under section 4, and'';

(5) in subsection (e), by striking clause (1) and inserting the following: ''(1) are not determined to be endangered species or threatened species under section 4, and''; and

(6) in subsection (f)—

(A) in paragraph (1), in the first sentence, by striking clause (A) and inserting the following: ''(A) are not determined to be endangered species or threatened species under section 4, and''; and

(B) by striking ''Secretary of the Interior'' each place it appears and inserting ''Secretary''.

(d) HARDSHIP EXEMPTIONS.—Section 10(b) (16 U.S.C. 1539(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''an endangered species'' and all that follows through ''section 4 of this Act'' and inserting ''an endangered species or a threatened species and the subsequent determination that the species is an endangered species or a threatened species under section 4'';

(B) by striking ''section 9(a) of this Act'' and inserting ''section 9(a)''; and

(C) by striking ''fish or wildlife listed by the Secretary as endangered'' and inserting ''fish or wildlife determined to be an endangered species or threatened species by the Secretary''; and

(2) in paragraph (2)—

(A) by inserting ''or a threatened species'' after ''endangered species'' each place it appears; and

(B) in subparagraph (B), by striking ''listed species'' and inserting ''endangered species or threatened species''.

(e) PERMIT AND EXEMPTION POLICY.—Section 10(d) (16 U.S.C. 1539(d)) is amended—

(1) by inserting ''or threatened species'' after ''endangered species''; and

(2) by striking ''of this Act''.

(f) PRE-ACT PARTS AND SCRIMSHAW.—Section 10(f) (16 U.S.C. 1539(f)) is amended—

(1) by inserting after ''(f)'' the following: ''PRE-ACT PARTS AND SCRIMSHAW.—''; and

(2) in paragraph (2), by striking ''of this Act'' each place it appears.

(g) BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—Section 10(g) (16 U.S.C. 1539(g)) is amended by inserting after ''(g)'' the following: ''BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—''.

(h) ANTIQUE ARTICLES.—Section 10(h)(1)(B) (16 U.S.C. 1539(h)(1)(B)) is amended by striking ''endangered species or threatened species listed'' and inserting ''species determined to be an endangered species or a threatened species''.

(i) PENALTIES AND ENFORCEMENT.—Section 11 (16 U.S.C. 1540) is amended in subsection (e)(3), in the second sentence, by striking ''Such persons'' and inserting ''Such a person''.

(j) SUBSTITUTION OF GENDER-NEUTRAL REFERENCES.—

(1) ''SECRETARY'' FOR ''HE''.—The following provisions are amended by striking ''he'' each place it appears and inserting ''the Secretary'':

(A) Paragraph (4)(C) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(B) Paragraph (5)(B)(ii) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(C) Section 4(b)(7) (16 U.S.C. 1533(b)(7)), in the matter following subparagraph (B).

(D) Section 6 (16 U.S.C. 1535).

(E) Section 8(d) (16 U.S.C. 1537(d)).

(F) Section 9(f) (16 U.S.C. 1538(f)).

(G) Section 10(a) (16 U.S.C. 1539(a)).

(H) Section 10(b)(3) (16 U.S.C. 1539(b)(3)).

(I) Section 10(d) (16 U.S.C. 1539(d)).

(J) Section 10(e)(4) (16 U.S.C. 1539(e)(4)).

(K) Section 10(f)(4), (5), and (8)(B) (16 U.S.C. 1599(f)(4), (5), (8)(B)).

(L) Section 11(e)(5) (16 U.S.C. 1540(e)(5)).

(2) ''PRESIDENT'' FOR ''HE''.—Section 8(a) (16 U.S.C. 1537(a)) is amended in the second sentence by striking ''he'' and inserting ''the President''.

(3) ''SECRETARY OF THE INTERIOR'' FOR ''HE''.—Section 8(b)(3) (16 U.S.C. 1537(b)(3)) is amended by striking ''he'' and inserting ''the Secretary of the Interior''.

(4) ''PERSON'' FOR ''HE''.—The following provisions are amended by striking ''he'' each place it appears and inserting ''the person'':

(A) Section 10(f)(3) (16 U.S.C. 1539(f)(3)).

(B) Section 11(e)(3) (16 U.S.C. 1540(e)(3)).

(5) ''DEFENDANT'' FOR ''HE''.—The following provisions are amended by striking ''he'' each place it appears and inserting ''the defendant''.

(A) Section 11(a)(3) (16 U.S.C. 1540(a)(3)).

(B) Section 11(b)(3) (16 U.S.C. 1540(b)(3)).

(6) REFERENCES TO ''HIM''.—

(A) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended by striking ''him or the Secretary of Commerce'' each place it appears and inserting ''the Secretary''.

(B) Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended in the matter following subparagraph (B) by striking ''him'' and inserting ''the Secretary''.

(C) Section 5(k)(2), as redesignated by section 9(a)(1) of this Act, is amended by striking ''him'' and inserting ''the Secretary''.

(D) Section 7(a)(1) (16 U.S.C. 1536(a)(1)) is amended in the first sentence by striking ''him'' and inserting ''the Secretary''.

(E) Section 8A(c)(2) (16 U.S.C. 1537a(c)(2)) is amended by striking ''him'' and inserting ''the Secretary''.

(F) Section 9(d)(2)(A) (16 U.S.C. 1538(d)(2)(A)) is amended by striking ''him'' each place it appears and inserting ''such person''.

(G) Section 10(b)(1) (16 U.S.C. 1539(b)(1)) is amended by striking ''him'' and inserting ''the Secretary''.

(7) REFERENCES TO ''HIMSELF OR HERSELF''.—Section 11 (16 U.S.C. 1540) is amended in subsections (a)(3) and (b)(3) by striking ''himself or herself'' each place it appears and inserting ''the defendant''.

(8) REFERENCES TO ''HIS''.—

(A) Section 4(g)(1), as redesignated by section 8(1) of this Act, is amended by striking ''his'' and inserting ''the''.

(B) Section 6 (16 U.S.C. 1535) is amended—

(i) in subsection (d)(2) in the matter following clause (ii) by striking ''his'' and inserting ''the Secretary's''; and

(ii) in subsection (e)(1), as designated by section 10(3)(A) of this Act, by striking ''his periodic review'' and inserting ''periodic review by the Secretary''.

(C) Section 7(a)(3) (16 U.S.C. 1536(a)(3)) is amended by striking ''his'' and inserting ''the applicant's''.

(D) Section 8(c)(1) (16 U.S.C. 1537(c)(1)) is amended by striking ''his'' and inserting ''the Secretary's''.

(E) Section 9 (16 U.S.C. 1538) is amended in subsection (d)(2)(B) and subsection (f) by striking ''his'' each place it appears and inserting ''such person's''.

(F) Section 10(b)(3) (16 U.S.C. 1539(b)(3)) is amended by striking ''his'' and inserting ''the Secretary's''.

(G) Section 10(d) (16 U.S.C. 1539(d)) is amended by striking ''his'' and inserting ''the''.

(H) Section 11 (16 U.S.C. 1540) is amended—

(i) in subsection (a)(1) by striking ''his'' and inserting ''the Secretary's'';

(ii) in subsections (a)(3) and (b)(3) by striking ''his or her'' each place it appears and inserting ''the defendant's'';

(iii) in subsection (d) by striking ''his'' and inserting ''the officer's or employee's'';

(iv) in subsection (e)(3) in the second sentence by striking ''his'' and inserting ''the person's''; and

(v) in subsection (g)(1) by striking ''his'' and inserting ''the person's''.

SEC. 19. CLERICAL AMENDMENT TO TABLE OF CONTENTS.

The table of contents in the first section is amended—

(1) by striking the item relating to section 5 and inserting the following:

''Sec. 5. Recovery plans and land acquisition.''

; and

(2) by striking the items relating to sections 13 through 17 and inserting the following:

''Sec. 13. Private property conservation.
''Sec. 14. Public accessibility and accountability.
''Sec. 15. Marine Mammal Protection Act of 1972.
''Sec. 16. Annual cost analysis by United States Fish and Wildlife Service.
''Sec. 17. Reimbursement for depredation of livestock by reintroduced species.
''Sec. 18. Authorization of appropriations.''.

SEC. 20. CERTAIN ACTIONS DEEMED IN COMPLIANCE.

(a) ACTIONS DEEMED IN COMPLIANCE.—During the period beginning on the date of the enactment of this Act and ending on the date described in subsection (b), any action that is taken by a Federal agency, State agency, or other person and that complies with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) is deemed to comply with sections 7(a)(2) and 9(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2), 1538(a)(1)(B)) (as amended by this Act) and regulations issued under section 4(d) of such Act (16 U.S.C. 1533(d)).

(b) TERMINATION DATE.—The date referred to in subsection (a) is the earlier of—

(1) the date that is 5 years after the date of the enactment of this Act; and

(2) the date of the completion of any procedure required under subpart D of part 402 of title 50, Code of Federal Regulations, with respect to the action referred to in subsection (a).

(c) LIMITATION ON APPLICATION.—This section shall not affect any procedure pursuant to part 402 of title 50, Code of Federal Regulations, that is required by any court order issued before the date of the enactment of this Act.

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Senate

The Senate met at 1 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Father, ruler of all nature, as Hurricane Rita's flood waters recede, we pause to thank You for Your goodness and mercy. We praise You for lighter-than-expected damage, for spared lives, and for generous hearts.

We thank You for the evidence of national and international unselfishness the forces of nature have shown us and for the opportunity to grow in grace by helping others.

Bless our lawmakers today as they continue their task of building a better nation and world. Guide them with Your providence and make them examples of civility and integrity. Give them the wisdom to listen to the whisper of conscience and to choose the harder right.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, 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 formally begin the consideration of John Roberts to be Chief Justice of the United States. In a moment, we will proceed to executive session to begin the debate on that nomination. In order to facilitate the debate on the Roberts nomination, we have set aside controlled time so that Members can better plan when they will be speaking to the body. I know many Members will want to come to the floor to speak on this important nomination. However, I hope Senators do not feel compelled to make lengthy statements. We will stay each night this week if the Senators desire to speak, but I would like to reach an agreement as to when that final vote will occur so that Members can plan accordingly. I will be discussing a time certain for that vote with the Democratic leader as we go forward with the debate.

Last week, I announced that we would have a vote today beginning approximately 5:30. Shortly, we expect to have that vote locked in by unanimous consent. We have about 24 nominations that are pending on the Executive Calendar. We will likely set one of those pending nominations for a vote. As always, we will alert Members when that vote is set.

Also, this week we need to address the continuing resolution as we end the fiscal year. We will continue working on the appropriations process following the vote on the Roberts nomination.

The appropriations bill for the Defense Department will be reported this week, and we expect to quickly turn to that bill.

Having said that, I look forward to a good debate and good discussion on John Roberts, followed by the vote on his confirmation.

EXECUTIVE SESSION

NOMINATION OF JOHN G. ROBERTS, JR. TO BE CHIEF JUSTICE OF THE UNITED STATES

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider Executive Calendar No. 317, which the clerk will report.

The legislative clerk read the nomination of John G. Roberts, Jr., of Maryland, to be Chief Justice of the United States.

Mr. FRIST. Mr. President, 19 years ago today, on September 26, 1986, William Rehnquist took the oath of office as the 16th Chief Justice of the United States.

Today, nearly two decades later, the Senate is faced with a unique opportunity to provide advice and consent on the nomination of John Roberts as our Nation's 17th Chief Justice.

As we debate Judge Roberts' nomination over the next few days, I ask that we think about the task the American people have entrusted to us.

Over the next few days, they will be watching and waiting. They will be scoring us on how well we perform our duty.

They will be looking to see if we proceed in an honorable and dignified manner—to see if we work together in a bipartisan way—and to see if we put principle above partisan politics.

The qualifications they expect us to look at for a Supreme Court Justice are unambiguous. They expect an individual who is qualified, an individual who will faithfully interpret the Constitution, an individual who will check politics and personal views at the door of the Court, an individual who will approach every case with a fair and open mind.

As Senators, our duties are clear. The question now becomes, and the question each of us must answer is, Is

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

John Roberts fit to serve as Chief Justice of the United States? Does he possess each of the qualities that the American people expect and qualities that our highest Court deserves?

In answering these questions, I recommend that we take a hard look at what we have learned about John Roberts over these last several weeks.

From his resume, we know he graduated at the top of his class from both Harvard College and Harvard Law School. At Harvard, he was editor of one of the most well-respected law journals in America.

He has argued 39 cases before the Supreme Court, and he has earned bipartisan respect as one of the finest appellate advocates in the Nation.

He served two Presidents in prominent positions. The American Bar Association gave John Roberts the highest rating possible—''well-qualified''—on three occasions.

We know he has earned respect from both sides of the political divide.

During the committee hearing 2 weeks ago, my distinguished Democratic colleague, Senator BIDEN, said Judge Roberts was ''one of the best witnesses to come before [the] committee'' in his 30-some years.

Senator FEINSTEIN complimented Judge Roberts for getting through the hearing ''in a remarkable way.''

Senator SCHUMER called him ''one of the best litigators in America'' and praised his ''amazing knowledge of the law.''

Senator SCHUMER went on to say that Judge Roberts ''may very well possess the most powerful intellect of any person to come before the Senate for this position.''

I agree with all of my colleagues' observations. John Roberts' record speaks for itself. And I believe that in the committee testimony he has earnestly and effectively shown America the face of John Roberts.

We know he understands the importance of judicial restraint and judicial independence. We know Judge Roberts appreciates that the role of a judge is to interpret the law and not to legislate from the bench. He understands that a judge is a humble servant of the law but never above the law.

In the words that captured his core philosophy, and captured the minds of Americans, Judge Roberts said:

> [J]udges are servants of the law, not the other way around. Judges are like umpires. Umpires don't make the rules; they apply them. . . .

And we know that Judge Roberts will not allow his personal political views to interfere with his judicial decisions.

In the hearings, he stressed that he has no political agenda but, rather, a commitment to ''confront every case with an open mind,'' ''to fully and fairly analyze the legal arguments that are presented,'' and to ''decide every case based on the record, according to the rule of law, without fear or favor, to the best of [his] ability.''

John Roberts has been open and forthcoming in the committee hearings. He has answered questions thoroughly, without compromising the independence to which he is entitled. He has provided this body with more than ample information to evaluate his merit.

In total, Senators have had access to over 100,000 pages of documents from his service in the Federal Government. And Judge Roberts endured almost 20 hours of committee testimony, including over 700 questions.

We have learned a lot about Judge John Roberts in the course of the last few weeks. And in one's personal interactions with John Roberts, we have all learned a little more. I know I have.

Getting to know John Roberts, I will say that truly he has a brilliant legal mind. He is ''the brightest of the bright.''

Above all, as his record reflects on the D.C. Circuit, John Roberts embodies the word that should be synonymous with every judge. He is fair. He is thoughtful. He is capable. He is hard working. He is driven. And John Roberts is a man of integrity. He is honest. He is devoted to his family.

These are qualities we want in the men and women who serve our Nation on the High Court. They are the qualities that will move America forward. John Roberts has proven beyond a shadow of a doubt that he has the qualification and the temperament, the knowledge and the understanding to serve as America's next Chief Justice. And in the eyes of my colleagues on both sides of the aisle, I sense that agreement.

As we move to this final stage of advice and consent, I urge my colleagues to continue to work toward that deadline of October 3 so that John Roberts can be on the bench when the Supreme Court begins its new term, and the Court can then be at full strength.

I look forward to a thoughtful and respectful debate on John Roberts' nomination, and then a fair up-or-down vote on confirmation later this week.

I yield the floor.

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. REID. Mr. President, many times we dwell on the negative, and that is unfortunate.

The debate that will take place this week speaks well of the process to this point.

I just saw Senator LEAHY walk through the Chamber. The other Member I wanted to mention briefly is Senator SPECTER, who is here in the Chamber.

The Judiciary Committee has acted in an exemplary fashion this past couple of months, with all the preliminaries that go into selecting a Supreme Court Justice—the first time we have had a new Supreme Court Justice in 11 years.

Senator SPECTER and Senator LEAHY are to be commended for the good work they have done.

Three weeks ago, I called Senator SPECTER and told him I thought he was moving on very well, and I complimented him on the good job he was doing in moving this forward.

There are strong feelings on each side. There are people voting no and people voting yes, but it has all been very respectful.

The heavy lifting of this nomination took place within the committee when 18 members of that committee spent a tremendous amount of time reading reports, and then, of course, in recent days asking questions that they had worked on for days and days before asking the questions.

So I want the record to be spread here with the fact that this shows how a legislative body should work. It doesn't mean everyone has to agree on the outcome. It just means you have to work in a respectful way to get to that outcome. We will have an outcome this week.

I say through the Chair to my distinguished friend, the Republican leader, from all I have been able to determine on our side, we would be certainly able to vote sometime in the morning on Thursday, if that would be appropriate. We might be pushing the envelope a little bit to try to finish on Wednesday. But I think we could finish with ease on Thursday with the schedule that people have.

I say that to my friend. Again, I say to Senator SPECTER—him being present, and Senator LEAHY not being present but saying the same to him—it really makes me feel good to know that our committee system works as it should, and it certainly did in this instance.

SENATE PRIORITIES

Mr. President, in the days and weeks since Katrina, there is no doubt that the American people have done their part to help.

I watched an interview over the weekend with a representative of the Red Cross who said they would soon be at $1 billion in money having come to the Red Cross from people of good will in the United States.

I think the American people have done their part to help, but I think—and I say this with some hesitation but certainly with as much affirmation as I can—the Republican-controlled Congress has not done its share. It has been a month. We have seen Hurricane Katrina come and go. We have seen Hurricane Rita come and go. And here we are, having done next to nothing to get victims the urgent relief they need.

Instead of letting the Senate address Katrina disaster relief in a comprehensive way, Republicans have spent the last 4 weeks debating the Commerce-State-Justice appropriations bill and the agriculture appropriations bill. These are important pieces of legislation but not nearly as important as the disaster relief measures that would give these people help immediately. These appropriations bills do little to help the victims. They do not offer us the opportunity to do more.

These bills, when they come to the floor, are in a parliamentary fashion

where they cannot be amended except in very strict ways. People who want to offer amendments dealing with Katrina have to use some political gyrations to be able to get a vote, and that is a two-thirds number they have to come up with to have it passed, which is very difficult to do. So I would hope we could get to some of these bills quickly.

I have said this before, and I do not want to sound like a broken record, but yesterday we lost three more troops in Iraq. I got a call late last night from Colonel Herbert, who is with the Nevada National Guard, a person who has devoted his life to the military. He said: Senator, I lost two of my men yesterday in a helicopter that went down in Afghanistan. He felt very bad. One of the pilots and one of the crew chiefs, both from Nevada, were killed.

This morning I was at Bethesda Naval Medical Center. As I walked in, there was a man in a wheelchair, missing both legs, and obviously he had had some trauma to his head. The naval officer who was with me indicated he was one who had been in the hospital, then left, and now is back. But yet in the Senate we have not done a bill to take care of these people.

In spite of the fact we have almost 2,000 Americans who have been killed in Iraq—we are spending upwards of $2.5 billion a week in Iraq—and that we are causing the ranks of the veterans to increase dramatically, we do not have a bill to take care of them. We have a bill, but we are not allowed to bring it to the floor. The Defense authorization bill, which sets up the funding and the other matters to take care of the active personnel who wear the uniform of the United States, plus our Guard and Reserve, plus the many obligations we as a nation have to our veterans—we are not debating that bill to do that. We spent a couple days on it.

These bills average about 2 weeks before we finish them. We are not going to that bill because the Republican-controlled Senate will not let us. We are going to do something that is unusual. We just heard from the distinguished majority leader that after we finish the Roberts nomination, we are going to bypass the Defense authorization bill and go to the Defense appropriations bill which we have not authorized.

What we normally do is we authorize within certain limits and then we bring the appropriations bills to the floor of the Senate and appropriate moneys for what we have authorized. We have not authorized anything, but we are going to appropriate, anyway.

There are lots of amendments pending. My staff and Senator LEVIN's staff worked with counterparts on the Republican side Friday to say: We will get rid of all our amendments. We will have 10 or 12 amendments. That is all we want. We would have one that would relate to the gulf, to Katrina, and the other 10 or 11 would be related to the Defense authorization bill. There is still no approval on that.

So those people who care about what is going on in Iraq—and that is most everyone—and those who care about what is going on in Afghanistan—and that is most everyone—should understand the bill we are not going to take up gives our troops and veterans the assistance they need.

Senator WARNER and Senator LEVIN, who are the chairman and ranking member of that committee, have provided in the bill before the Senate $21 billion in new spending for the military, $50 billion extra for covering operations in Iraq, and a 3.1-percent pay raise and other benefits to people in the United States military, which we are not going to be able to debate or vote on. We are not going to be able to amend the bill. That is too bad. It is really too bad. I think it shows a lack of respect for the people in the military, as indicated by my trip to Bethesda today.

In addition to that, we made little progress on S. 1637, the Katrina Emergency Relief Act of 2005. This is a bill that we Democrats submitted. It is a relief plan to give health care, housing, education, and financial relief to those people who need it. It was introduced the week after the hurricane. We still have not been able to get an agreement from the majority—Senate Republicans—as to how to proceed on this bill. None of the items have made it here to the desk, but yet we hear people complaining that Katrina is going to cost too much money and they want to start making cuts in Government programs. I am happy to take a look at that. But the first place we should look is at the budget here in the Senate. In the Senate, we authorize and appropriate, we pass a budget, and then we execute that with something called reconciliation. The budget we are working on is immoral. And those are not my words; those are words that were written by the leaders—not some offshoot groups—the leaders, the chief executives of the major Protestant religions in the United States—Lutherans, Methodists, Episcopalians, and others. I read into the RECORD the night we had that measure on the floor a letter from them saying: The budget is immoral. Don't vote for it. It passed with a party-line vote. The Republicans passed this, what they referred to as an immoral document. Let's not execute that. These church leaders were visionary. They knew then it was immoral. Today it is even worse.

What are we being asked to do with the reconciliation? We are being asked to give $70 billion in added tax cuts to the rich—$70 billion. We are being asked to cut $10 billion from Medicaid. Medicaid, a medical program that goes to the poorest of the poor, we are being asked to cut $10 billion from that. That is in this budget we are being asked to execute. We are being asked to cut student loans, to cut food stamps. If we want a big offset, get rid of the $70 billion tax cut now.

Times have changed. Our priorities must change with them. America can do better. We can start doing better today with bipartisan health care relief for survivors of Katrina. We have all heard about how the State governments of Louisiana, Mississippi, and even Alabama are struggling to provide health care. But many States in the region and elsewhere that have accepted thousands of Katrina evacuees are facing a similar problem. There are 60,000 evacuees in Arkansas.

We know no matter how hard these States try, they lack the resources to do what is needed, and many survivors will be left behind—and have been left behind. Only the Federal Government has the resources to address the evacuees' health care and other needs.

Fortunately, Senator GRASSLEY, the chairman of the Finance Committee, and the ranking member, MAX BAUCUS, set aside partisan differences and recognized this fact, that help is needed—and needed now—and they have come together and crafted a compromise to ensure that Katrina's victims will be covered under Medicaid, wherever they are, with full Federal funding.

This package does not provide coverage regardless of income, as my bill would have, but it is a good compromise. Senators GRASSLEY and BAUCUS are to be commended. It will provide relief to many who need it. We need to pass this bill. We need to get the House to agree with this bipartisan approach so we can get the bill to the President's desk as soon as possible. We need to do this now. Proceeding with business as usual, while the administration relies on bureaucratic waivers on a State-by-State basis, will not, and has not, gotten the job done.

The White House approach will not provide care, for example, to a 55-year-old grandmother or father who has found a job but still needs health care. It will not ensure uniform coverage from State to State. It will not expedite the process for victims and States who have already waited too long. It will not ease the financial burden that destination States are being asked to shoulder, such as Arkansas. And it will not provide relief to the States hit by Hurricane Katrina. In fact, it may make their situations even worse.

The Finance Committee bill enjoys bipartisan support in the Senate, and support from our Governors, State Medicaid directors, and numerous patient and provider groups.

There is no reason to wait any longer. We were ready to clear the bill Thursday. It was cleared on our side. It was all ready to go. Not on that side. We said: Let's wait a couple hours. No. We couldn't do it on Thursday. ''Let's come in Friday to do it.'' ''No, we can't do it on Friday.'' ''Let's do it on Monday.'' ''Can't do it on Monday''—although we are going to ask sometime today unanimous consent that we take this bill up and pass it. Our side has and will agree. I would hope we can do that. It is so important. States are

being hurt. They cannot bear the burden of the disaster that befell us.

The PRESIDING OFFICER (Mr. SESSIONS). Under the previous order, the time from 1:30 p.m. to 2:30 p.m. will be under the control of the majority leader or his designee.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, this afternoon, the Senate begins the debate on the confirmation of Judge John G. Roberts, Jr., to be Chief Justice of the United States. It is not an overstatement to note this is a historic debate. At the age of 50, Judge Roberts, if confirmed, has the potential to serve as Chief Justice until the year 2040 or beyond.

Today, Justice John Paul Stevens, at the age of 85, continues to serve. If you project Judge Roberts ahead 35 years, it would be to the year 2040. Obviously, by that time it will be a very different world. There will be very different issues which will confront the Court with the advances in technology, with the advances in brain scanning, key questions as to how far the privilege against self-incrimination goes to scan someone's brain. Will it be like a blood test and fingerprints or will it be viewed as invasive and a violation of a right to privacy? Those are the kinds of issues which Judge Roberts will confront if confirmed as Chief Justice.

He also has the potential to project a new image on the Supreme Court. That Court has been buffeted by a whole series of 5-to-4 decisions. Candidly, some of them are inexplicable, where you have, this year, the Supreme Court of the United States saying that Texas could display the Ten Commandments outdoors, but Kentucky could not display the Ten Commandments indoors. There are some minor differences, but it is hard to understand how the Ten Commandments can be shown in Texas but not in Kentucky by a 5-to-4 vote.

Under the very important legislation of the Americans With Disabilities Act, the Supreme Court had two 5-to-4 decisions 3 years apart. One, in a case captioned Garrett v. University of Alabama, in 2001, the Supreme Court declared the title unconstitutional which dealt with discrimination against the disabled in employment.

Three years later, in Tennessee v. Lane, the Supreme Court upheld the constitutionality of another title of the Americans with Disabilities Act which dealt with access to public accommodations. We have seen a proliferation of opinions with multiple concurrences, making them very hard to understand. Earlier this year, the Judiciary Committee took up the issue of what was happening in Guantanamo, and a study was undertaken on three opinions handed down by the Supreme Court in June of last year. On one case, they couldn't get a majority, a plurality of four, so there was no holding. In the other two cases, there were concurrences and dissents. You have a pattern which exists where Justice A will write a concurring opinion, joined by Justice B, and Justice B will write a separate concurring opinion, joined by Justice A and Justice C.

This is an issue which was considered during the course of Judge Roberts' hearings. It is one where a new judge, a new Chief Justice at the age of 50, will have an opportunity to make some very systemic changes in the way the Court functions. When Judge Roberts was questioned about his ability to handle this matter—first during the informal meeting in my office and later in the hearings—he said he thought he could handle it because, in his many appearances before the Supreme Court, some 39 in number, it was a dialog among equals. I was impressed by his concept of a dialog among equals, that he considered himself as a lawyer arguing before the Court to be dealing with equals. I have had occasion three times to appear before the Supreme Court, and it didn't seem to me like a dialog among equals. But when you have been there 39 times and you know the Justices as well as he does—and the word is that the Justices very much applaud his nomination to be Chief Justice—he has the potential almost from a running start to bring a new day and a new era to the Supreme Court. That is a very attractive feature about his projection as Chief Justice.

We know the famous historical story about Earl Warren's becoming Chief Justice in 1953. The Court was then faced with Brown v. Board of Education, the desegregation case. There were many disputes in the Court at that time. They had to carry the case over. Chief Justice Warren was able to get a unanimous Court, which was important, so that contentious issue was one where nine Justices agreed and came down with an opinion which was obviously difficult to implement but had a great deal more stature because of its unanimity. So here is an extra bonus for the Court, an extra bonus for America, if confirmed as Chief Justice: the potential that Judge Roberts has to promote a new day and a new era for the Court administratively.

On his qualifications, Judge Roberts was rated ''well qualified'' by the American Bar Association. It is understandable, since he was a summa cum laude graduate of Harvard College, magna cum laude graduate of Harvard Law School; had a very distinguished career as assistant to Attorney General William French Smith, after serving as a clerk to a distinguished Second Circuit judge, Henry Friendly; then served as clerk to then Associate Justice William Rehnquist; then, following his work with Attorney General William French Smith, became associate White House counsel; practiced with the prestigious law firm of Hogan & Hartson—Hogan & Hartson was prestigious before Judge Roberts got there but a lot more so after he was there and, frankly, after he left—then his status as a premier appellate lawyer; then the Supreme Court with some 39 cases.

It was my view that Judge Roberts has a broad, expansive understanding of the application of the Constitution. He said:

> They
>
> —referring to the Framers—
>
> were crafting a document that they intended to apply in a meaningful way down through the ages.

While he would not quite accept my characterization of agreement with Justice John Marshall Harlan on the document being a living thing, he did say that the core principles of liberty and due process had broad meaning as applied to evolving societal conditions. He is not an originalist. He is not looking to original intent. But he sees the Constitution for the ages and adaptable to evolving societal conditions.

On the issue of how many questions he answered before the Judiciary Committee, I believe he answered more than most but, candidly, did not answer as many questions as I would like to have had him answer. I will detail that in the course of this brief presentation.

I have observed, in the 10 Supreme Court nominations where I have had the privilege to participate on the Judiciary Committee, that nominees answer about as many questions as they believe they have to in order to be confirmed. But it has become an evolving process. A view of some of the history of Supreme Court nominations is relevant to see what has happened, what is in the course of happening, and what the next nominee may face.

The Senate Judiciary Committee has conducted hearings on nominees only since 1916—that is, for the Supreme Court—with the nomination of Louis Brandeis by President Woodrow Wilson. Justice Brandeis did not appear. The first time a nominee appeared before the committee was in 1925. The nominee was Harlan Fiske Stone. An issue had arisen as to whether there was a political motivation in the controversial investigation into the conduct of Judge Burton Wheeler. Justice Stone asked to appear to respond to the allegations. He did so, and he was confirmed.

In 1939, President Roosevelt nominated Felix Frankfurter, who initially refused to appear personally, but after being attacked for his foreign birth, his religious beliefs, and his associations, Frankfurter decided to appear. He read from a prepared statement, refused to discuss his personal views on issues before the Supreme Court. His hearing lasted only an hour and a half in duration and did not set a precedent for future nominees.

In 1949, Sherman Minton, who had been a U.S. Senator, became the only Supreme Court nominee to refuse to testify before the Judiciary Committee. Minton wrote to the committee:

> I feel the personal participation by the nominee in the committee proceedings related to his nomination presents a serious question of propriety, particularly when I

might be required to express my views on highly controversial and litigious issues affecting the Court.

Notwithstanding Minton's refusal, the committee conducted its hearing in Minton's absence and confirmed him. It wasn't until 1955, with the nomination of Justice John Marshall Harlan, that nominees have appeared regularly before the Judiciary Committee. Only since 1981, following my own election in 1980, have the hearings taken on a little different approach as to what the nominees will answer. Justice O'Connor declined to answer many questions. The next nomination hearing was that for Chief Justice Rehnquist, who was a sitting Associate Justice. Initially Justice Rehnquist declined to appear, then was advised that if he wanted to be confirmed, he would have to appear. It was a contentious hearing. As the record shows, Chief Justice Rehnquist was confirmed by a vote of 65 to 33. He did answer a great many questions, although he did not answer a great many questions.

I asked him a bedrock question as to whether Congress had the authority to take away the jurisdiction of the Supreme Court of the United States on the first amendment. He declined to answer. Overnight a Senate staffer brought me an article which had been written by a young Arizona lawyer in 1958 by the name of William H. Rehnquist which appeared in the Harvard Law Record. The young Arizona lawyer, William H. Rehnquist, was very tough on the Senate Judiciary Committee for the way it conducted its hearings for Charles Whittaker. Charles Whittaker was from Kansas City. There are two Kansas Cities—one in Kansas and one in Missouri. Justice Whittaker lived in one and practiced law in the other. A big to-do was made about the fact that it would be an honor to two States if he was confirmed, where he worked and where he lived.

This young lawyer from Arizona, Bill Rehnquist, didn't think that amounted to a whole lot. He chastised the Senate Judiciary Committee for not asking about due process and other constitutional issues. So in the face of his declination to answer my questions on taking jurisdiction away from the Supreme Court on the first amendment, I asked him if he was that William H. Rehnquist from Arizona. He said, yes, that was true, he was.

I said: Did you write this article?

He said: Yes, I did. Then he added quickly: And I was wrong.

So that didn't end the issue because having the authority of this young lawyer from Arizona, pretty good reasoning, I pursued the questions. Finally, he answered the question on could the Congress take away the jurisdiction of the Court on the first amendment. He said, no, the Congress could not do that.

So naturally I then asked about the fourth amendment, search and seizure. Could the Congress take away the jurisdiction from the Supreme Court on search and seizure. He declined to answer that. I went to amendment five on privilege against self-incrimination. Again he declined. And then six, on right to counsel, and seven, and eight on cruel and unusual punishment. Then I asked him a follow-up question: Why would he answer on the first amendment but not on any of the others? As you may suspect, he refused to answer that question as well.

It was my judgment that Chief Justice Rehnquist passed muster. It was a battle. And then Justice Scalia came before the Senate following Chief Justice Rehnquist. Justice Scalia would not answer any questions. As I have said—and really too apocryphal—Justice Scalia wouldn't even give his serial number. He would only give his name and rank. Prisoners of war are compelled to answer questions, but only three—name, rank, and serial number. But as I have said, and I have said this to Justice Scalia in interpersonal banter, he wouldn't even give us his serial number. But it was perhaps an exhausted Senate following the confirmation of Chief Justice Rehnquist or perhaps it was Justice Scalia's superb academic and professional record, he would not even answer the question as to whether he would uphold Marbury v. Madison, a decision of the Supreme Court of the United States in 1803 where the Court undertook the authority to interpret the Constitution and to interpret the law and to be the final arbiter of the Constitution.

Then in 1987 the Judiciary Committee considered the nomination of Judge Bork from the District of Columbia Court of Appeals. Judge Bork had very extensive writings in law reviews and books, many speeches, had a very extensive paper trail, a controversial paper trail. Judge Bork had written that absent original intent there was no judicial legitimacy, and absent judicial legitimacy, there could not be judicial review. Understandably, the committee had many questions for Judge Bork, and in that context Judge Bork felt compelled to answer the questions.

In the interim between Justice Scalia and Judge Bork, Senator DeConcini and I—Senator DeConcini being another member of the Judiciary Committee—had prepared a resolution to be submitted to the Judiciary Committee which would delineate an appropriate line of questions for nominees in trying to set some standards and trying to set some parameters as to what we felt, what questions were appropriate and what questions had to be answered to warrant confirmation. After the proceedings as to Judge Bork, we felt it unnecessary to move ahead with that kind of a resolution.

The nomination of Justice Kennedy followed, and Justice Souter and the other Justices, Justice Thomas, who answered a great many questions, and then the nomination of Justice Ginsburg and the nomination of Justice Breyer. These nomination proceedings found the nominees answering some, not answering others, but essentially following the rule that they answered about as many questions as they felt they had to.

Judge Roberts answered more questions than most. He answered the question about the right of privacy in a very positive manner in response to questions which I asked, which Senator KOHL asked, and which others answered. He said there was a right of privacy. He said the decision of the Supreme Court of the United States in Griswold v. Connecticut was a correct decision and he extended the contraception issue beyond marriage to those who were single, saying that right of privacy existed, and upheld the propriety of the decision of the Supreme Court in the Eisenstadt case. Other nominees had refused to answer such questions.

I felt that Judge Roberts did not answer some questions which I thought should have been answered. For example, I asked him about the appropriate standard for testing constitutionality under the commerce clause. We found in United States v. Lopez in 1995 that the Supreme Court of the United States had cut back on congressional authority of the Congress which had been in existence for almost 60 years. Then in the case of the United States v. Morrison, the Court struck down portions of legislation designed to protect women against violence. They did so on the stated principle that they disagreed with the congressional ''method of reasoning.'' When I heard about that rationale, it seemed to me to be inappropriate. What was the Court's method of reasoning which was superior to the congressional method of reasoning? I find the matter of unique historical importance that the columns of the Senate are lined up exactly evenly with the columns of the Supreme Court.

Interestingly, in an early draft of the Constitution, the Senate was given the authority to appoint Supreme Court Justices. I have seen or visualized, conceptualized a certain parody with those columns lined up exactly the same. When I read the opinion of the Supreme Court 5 to 4 in the United States v. Morrison, striking down portions of the legislation to protect women against violence, I wondered what was there in the Supreme Court which led them to a method of reasoning superior to a congressional method of reasoning? What happens when you move across the short space of green between the Supreme Court columns and the Senate's columns?

As the dissent pointed out, the opinion of the Court must have presumed some unique form of judicial competency. If you have a unique form of ''judicial competency,'' you must have a form of congressional incompetency which is hardly fitting in an analysis of cases and facts and a determination of

constitutionality with the separation of powers between the Congress and the Court.

In the case of United States v. Morrison, the factual record exists ''showing reports on gender bias from the task force in 21 states and 8 separate reports'' issued by Congress in its committees over a long course of time. The dissent detailed all of the evidentiary basis and then concluded ''there was a mountain of evidence.''

When I wrote to Justice Roberts by letter dated August 8 and August 23, I had alerted him to this case and this question. At this point, I ask unanimous consent the full text of those letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITEE ON THE JUDICIARY,
Washington, DC, August 8, 2005.

Hon. JOHN G. ROBERTS, Jr.
E. Barrett Prettyman Courthouse,
Washington, DC.

DEAR JUDGE ROBERTS: I write to give you advance notice of some of the issues I will be asking at your confirmation hearing. In addition to identifying topics, I think it is helpful to outline the background for the questions to save time at the hearing.

In addition to the commentaries of scholars and others about the Supreme Court's judicial activism and the Court's usurping Congressional authority, members of Congress are irate about the Court's denigrating and, really, disrespectful statements about Congress' competence. In U.S. v. Morrison, the Court rejects Congressional findings because of ''our method of reasoning''. As the dissent notes, the Court's judgment is ''dependent upon a uniquely judicial competence'' which implicitly criticizes a lesser quality of Congressional competence.

In Morrison, the Court invalidated, by a 5-4 vote, legislation on gender-motivated crimes of violence involving three Virginia Polytechnical Institute football players who were accused of raping a fellow student.

Chief Justice Rehnquist's opinion, interpreting the Commerce Clause, held Congress cannot regulate ''non-economic, violent criminal conduct based solely on that conduct's aggregate effect on interstate commerce.'' The Court acknowledged the ''contrast with the lack of Congressional findings that we faced in Lopez'' and the Act was ''supported by numerous findings regarding the serious impact of gender-motivated violence on victims and their families.''

Writing for four dissenters, Justice Souter referred to ''the mountain of data assembled by Congress here showing the effects of violence against women on interstate commerce.'' Citing longstanding precedents, the dissent said:

''The business of the courts is to review the Congressional assessment not for soundness but simply for the rationality of concluding that a jurisdictional basis exists in fact.''

Noting the obvious advantage Congress has in its fact-finding procedures contrasted with the Court's limitations, the Souter dissent said:

''The fact of such a substantial effect is not an issue for the courts in the first instance . . . but for the Congress where institutional capacity for gathering evidence and taking testimony far exceeds ours.''

The Souter dissent further specified:

''The record includes reports on gender bias from task forces in 21 states and we have the benefit of specific factual finding in eight separate reports issued by Congress and its committees over the long course leading to its enactment.''

From the New Deal Court in 1937 to the abrupt reversals in Lopez and Morrison, Congressional authority under the Commerce clause had gone unchallenged based on Justice Harlan's rationale in the 1968 case Maryland v. Wirtz:

''But where we find the legislators . . . have a rational basis for finding a chosen regulatory scheme necessary to the protection of commerce, our investigation is at an end.''

In the face of decades of precedents and a ''mountain of data,'' Chief Justice Rehnquist rejected Congress' findings because of our ''method of reasoning.''

To this Senator, who has labored through 25 years of intense legislative hearings and fact-finding plus prior public service and experience in the real world, my immediate reaction is to wonder how the Court can possibly assert its superiority in its ''method of reasoning'' over the reasoning of the Congress.

The Souter dissent attacks the majority's '''method of reasoning'' dictum questioning the Court's judgment is ''dependent upon a uniquely judicial competence.'' The dissent then points out:

''. . . these formalistic contrived confines of commerce power in large measure provoked the judicial crisis of 1937'' so that ''one might reasonably have doubted that Members of this Court would ever again toy with a return to the days before NLRB v. Jones & Laughlin Steel Corporation which brought the earlier and nearly disastrous experiment to an end.''

The Souter dissent further notes the categorical formalism ''. . . is useful in serving a conception of Federalism.'' A reinvigoration of Federalism is, of course, the hallmark agenda of the judicial activism of the Rehnquist Court.

Even with the Souter dissent referencing the crisis of 1937, I do not suggest any move as radical as President Roosevelt's attempt to pack the Court. I do see a great deal of popular and Congressional dissatisfaction with the judicial activism; and, at a minimum, the Senate's determination to confirm new justices who will respect Congress' constitutional role.

My questions are:

(1) Is there any real justification for the Court's denigrating Congress' ''method of reasoning'' in our constitutional structure of separation of power where the elected Congress has the authority to decide public policy on issues such as gender-based violence effecting interstate commerce?

(2) Is there any possible basis for the Court's characterization of ''uniquely judicial competence'' implicitly criticizing a lesser quality of Congressional competence?

(3) Do you agree with Justice Harlan's jurisprudence concerning legislation on the ''rational basis'' test as embraced by the dissent contrasted with the majority opinion?

(4) What is your thinking on the jurisprudence of U.S. v. Lopez and U.S. v. Morrison which overturned almost 60 years of Congress' power under the Commerce Clause?

Sincerely,

Arlen Specter.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, August 23, 2005.

Hon. JOHN G. ROBERTS, Jr.
U.S. Department of Justice,
Washington, DC.

DEAR JUDGE ROBERTS: Supplementing my letter on the Commerce Clause, this letter deals with Supreme Court decisions on the Americans with Disabilities Act (ADA) which I intend to ask you about at your confirmation hearing.

Like my first letter on the Commerce Clause, I am concerned about the Supreme Court's judicial activism which has usurped Congressional authority by creating, as Justice Scalia's dissent in *Tennessee v. Lane* states, a ''flabby test'' which is an ''invitation to judicial arbitrariness by policy driven decision-making''. The ''ill-advised'' result, as the Scalia dissent further notes, is for the Court to set itself up as ''taskmaster'' to determine that Congress has done its ''homework'' which demonstrates lack of respect for a co-equal branch of government.

Except for the swing vote of Justice O'Connor and the dramatic image of a paraplegic crawling up the steps to a courtroom, it is hard to discern a significant legal difference between *Alabama v. Garrett*, decided in 2001 involving ADA Title I discrimination in Employment, and *Tennessee v. Lane*, decided in 2004 involving ADA Title II discrimination in pubic accommodations.

In *Lane*, a 5–4 decision, with Justice O'Connor in the majority, the Court upheld the constitutionality of the Act in mandating access by a paraplegic who had to crawl up the steps to a second floor courtroom to answer criminal charges. In *Garrett*, a 5–4 majority, with Justice O'Connor in the majority, the Court declared the Act unconstitutional in seeking to hold the state liable for employment discrimination.

These decisions pose two major problems: (1) A lack of stability or predictability in the law because the two cases, decided three years apart, are virtually indistinguishable; and (2) The Court's judicial activism in functioning as a super-legislature.

Dissenting in *Lane*, Chief Justice Rehnquist complained that the majority referenced the same Congressional task force's ''unexamined, anecdotal'' evidence that the Court had already rejected in *Garrett*. Contrary to that assertion, the records in the two cases, which appear to be similar, seem to contain overwhelming evidence to support the Congressional findings.

Title II of ADA involved in *Lane* was supported by 13 Congressional hearings and a special task force that had gathered evidence from every state in the Union. Similarly, Title I of ADA involved in *Garrett* was based on task force field hearings in every state attended by more than 30,000 people including thousands who had experienced discrimination with roughly 300 examples of discrimination by state governments.

Notwithstanding those findings, the *Garrett* Court concluded:

''The legislative record of the ADA, however, simply fails to show that Congress did in fact identify a pattern of irrational state discrimination in employment against the disabled.''

Writing for four justices, Justice Breyer's dissent found ample evidence to support the legislation noting:

''Unlike courts, Congress can readily gather facts from across the Nation, assess the magnitude of a problem and more easily find an appropriate remedy.''

The dissent makes three more related points:

(1) ''Moreover, unlike judges, Members of Congress are elected.''

(2) ''. . . The Courts do not 'sit as a superlegislature to judge the wisdom or desirability of legislative policy determinations' '' and

(3) ''To apply a rule designed to restrict Courts as if it restricted Congress' legislative power is to stand the underlying principle—a principle of judicial restraint—on its head.''

In imposing liability on the states in *Lane*, the Supreme Court justifies abrogating the

states' Eleventh Amendment immunity by enforcing fundamental rights under the Fourteenth Amendment. To do that, under the Court's reasoning, there must be ''a congruence and proportionality'' between the injury and the remedy imposed. That leaves the Court substantial latitude, as a matter of interpretation, to declare acts of Congress unconstitutional notwithstanding the enormous evidentiary support for Congress' public policy determinations.

Justice Scalia's dissent in *Lane* attacked the ''congruence and proportionality standard'' calling it a ''flabby test'' and an ''invitation to judicial arbitrariness and policy driven decision making.'' The dissent added:

''Worse still, it casts this Court in the role of Congress' taskmaster. Under it, the courts (and ultimately this Court) must regularly check Congress' homework to make sure that it has identified sufficient constitutional violations to make its remedy constitutional and proportional. As a general matter, we are ill advised to adopt or adhere to constitutional roles that bring us into conflict with a coequal branch of Government.''

Justice Scalia then carved out a new rationale for disagreeing with the ADA's remedy, unmentioned when he joined the majority three years earlier in *Garrett*, that the Fourteenth Amendment applies only to state racial discrimination and ''do not apply to this field of social policy far removed from the principal object of the Civil War amendments.''

My questions are:

(1) Aren't the ''congruence and proportionality standard'' and Chief Justice Rehnquist's ''method of reasoning'' dictum in *Morrison* examples of manufactured rationales used by the Supreme Court to exercise the role of super legislature and make public policy decisions which is the core Congressional role under the Constitution?

(2) Without invoking the ''flabby test'' and engaging in an ''invitation to judicial arbitrariness by policy driven decision making'' embodied in the ''congruence and proportionality standard,'' wouldn't a preferable test of constitutionality be the standard applied by Justice Harlan to the Commerce clause in *Maryland v. Wirtz*, and again invoked in *Gonzales v. Raisch*:

''But where we find the legislators . . . have a rational basis for finding a chosen regulatory scheme necessary to the protection of commerce, our investigation is at an end''?

(3) Isn't there a lack of respect for Congress demonstrated by the Supreme Court as Justice Scalia points out that it is ''ill advised'' for the Court to set itself up as ''taskmaster'' to determine that Congress has done its ''homework'' and to strike down Acts of Congress as Chief Justice Rehnquist did in Morrison by impugning our ''method of reasoning''?

(4) Using the maxim that ''hard cases make bad laws'', should there be any place in the judicial decision-making process to make allowances for the unique and sympathetic factual situation in *Lane* where a paraplegic had to crawl up the courthouse steps?

Sincerely,

ARLEN SPECTER.

P.S. Following the release of my prior letter on the Commerce Clause, there were misrepresentations that my questions asked how you would have decided specific prior cases. That is not true. The questions were carefully crafted to elicit your thinking on your jurisprudence and judicial philosophy as opposed to how you would have decided specific cases.

Mr. SPECTER. At this juncture, it might be appropriate to note that Republicans have the floor until 2:30, and if one of my colleagues is to come over, I may speak a more abbreviated period of time, we will have time for another speaker to take the floor before Senator LEAHY is recognized under the unanimous consent request at 2:30.

I asked Judge Roberts the questions which I had set forth in the letter that I referred to, What is an appropriate jurisprudential standard on the commerce clause? Is it the one which has been followed for so many years, which is a substantial basis for the congressional decision, or is it some ''method of reasoning'' which is impossible to understand even in the context of a record from a task force in 21 States and 8 separate reports to the Congress?

Judge Roberts declined to answer the question. I pressed him and finally said we would have to agree to disagree. But it seems to me when you have a question about philosophy, about judicial approach, about what is the proper standard to apply on constitutionality of a congressional exercise of authority under the commerce clause, that is the kind of question which should be answered, not sufficient to vote ''no,'' but candidly the beginning of being a little bit tempting.

Then I asked him about the jurisprudence of the Supreme Court in the two cases I have already referred to under the Americans With Disabilities Act.

In Garrett v. Alabama, in the year 2001, the Supreme Court struck down a title of the Americans With Disabilities Act which dealt with discrimination in employment involving Ms. Barrett, who had breast cancer. And then, 3 years later with an identical record—the records are the same in all titles of the Americans With Disabilities Act—you had a striking case of a paraplegic, a case called Tennessee v. Lane, where the parapalegic had to crawl up the steps to a courtroom. The issue there was whether there was discrimination under the Americans With Disabilities Act on access. The Supreme Court of the United States, in a 5-to-4 decision, said that was constitutional.

It is inexplicable how, given two titles of the Americans With Disabilities Act with identical records, the Court could find one to be constitutional and the other to be unconstitutional. I asked Judge Roberts about that. Again, he declined to answer.

The Supreme Court in both Garrett and Lane adopted a brand new standard for testing constitutionality of congressional action under section V of the 14th amendment as contrasted with the right of the States for immunity from suit under the 11th amendment.

The Supreme Court of the United States picked up a doctrine which they had adopted in a case called City of Boerne v. Flores. In 1997, when the Supreme Court overturned the Religious Freedom Restoration Act of 1993, legislation which had been very carefully considered by the Congress of the United States, the Supreme Court said that act was unconstitutional because it did not satisfy a test of congruence and proportionality. When I read that standard, I wondered what it meant. Congruence and proportionality. Where did the Court get this standard? They plucked it right out of thin air. There was no basis for this kind of a standard.

Justice Scalia, in dissenting in the Lane case, said it was a ''flabby test'' which was put into effect in order to allow the Supreme Court to engage in policymaking decisions, in effect, judicial legislation.

The dissenting opinion by Justice Scalia in the Lane case took the Court to task for an ''ill-advised opinion'' where they acted as the taskmaster of the Congress to see that the Congress was doing its homework. Like the Supreme Court decision in Morrison attacking our method of reasoning, it seemed to me the Court had gone much too far in challenging the competency of the Congress in striking down congressional authority.

Again, I ask Judge Roberts, what about this test of congruence and proportionality? Does it have any basis in the law? Is there any rationality in what the Court did in these two cases under the Americans with Disabilities Act? Again, he declined to answer.

After talking to a number of my colleagues, the Senate Judiciary Committee will give very serious consideration to legislation which would give the Congress standing to defend the constitutionality of the statutes which it enacts. Standing is a very delicate subject and there are a great many cased where people seek to go to court to enforce the Endangered Species Act or to enforce a variety of laws. Congress has the authority to grant standing.

It seems to me that it might be a good occasion for Congress to exercise this authority to grant standing to Congress. Why should we rely upon the litigants to defend the constitutionality of these enactments which we pass very carefully and very laboriously, as we did the Religious Freedom Restoration Act of 1993 or the Americans with Disabilities Act? That is a move which might have material implications on reasserting the balance of power and the separation of power between Congress and the Court.

If we have standing, we can have our own counsel, we can proceed to brief the cases, we can proceed to have someone argue it on our behalf. We may be able to stop the flood of actions by the Supreme Court which have reversed acts of Congress, the actions by an activist Court engaged in judicial legislation and doing it under the guise of illusory standards such as congruence and proportionality, standards plucked out of thin air. They disagree with our method of reasoning when there is no basis for asserting superiority of reasoning by the Supreme Court over the Congress.

When we talk about this judicial activism, we are talking about a form of

activity which is abhorred by both the right and the left on the political spectrum. My distinguished colleague, Senator HATCH, who preceded me as chairman of the Judiciary Committee, and I have discussed the decision of the Supreme Court in striking down the Religious Freedom Restoration Act of 1993, and it is one which candidly defies logic. But the Court decided to undertake that restriction of congressional authority, and it did so in that case.

The issue of how many questions a nominee must answer will be before the Senate again on the next nomination to replace retiring Justice Sandra Day O'Connor. The refusal of nominees to answer questions where the case is likely to come before the Court is, in my opinion, well-founded.

Judge Roberts answered more questions than many. Justice Scalia, for example, as I said, would not even comment on Marbury v. Madison. Judge Roberts did not answer questions where, in his judgment, the case was likely to come before the Supreme Court. If the case is to come before the Supreme Court, as a matter of judicial independence, the nominee ought not to answer that question.

I said in advance of the hearings, and I said during the hearings, that any Senator had a right to ask any question which he or she chose, including how a case would be decided, and that the nominee had the right to answer or decline to answer as the nominee chose, and that it was my view that if a question did involve a question on a case likely to come before the Court, the nominee was within his rights to decline to answer.

The public does not understand the issue of judicial independence and the ramifications of answering a question on a case likely to come before the Court. The public in the opinion polls wanted to know what Judge Roberts thought about a woman's right to choose. The public wanted to know whether he would uphold Roe v. Wade or overrule Roe v. Wade.

It seems to me this is a classic case of the irresistible force meeting the immovable object. The immovable object is judicial independence—not to make a commitment in advance on a case likely to come before the Court—and the sort of irresistible object is the public interest in knowing.

During the course of the hearings on Judge Roberts, Senator after Senator was moving right into the area of wanting to know how Judge Roberts would decide a case. I pressed Judge Roberts on the issue of stare decisis and on the value he would place on precedent, on Planned Parenthood v. Casey, on some 38 cases where the Supreme Court of the United States had an opportunity to overrule Roe and declined to do so. I asked him about a doctrine which had been articulated in some quarters about Casey being a superprecedent and took a step on coining a new concept called the superduper precedent. It has not landed too well, but sometimes these new ideas take a while to gestate.

I believe the next nominee is going to face very close questioning. It is my thought, already expressed by a number of Senators—and Senators on both the right and the left—that Senators want to know more about the thinking of the new nominee than Judge Roberts was willing to give.

Judge Roberts was able to run between the raindrops in a hurricane because of his unique talent; his record was so extraordinary that he was able to fend off many questions. A number of Senators have stated a reason for a ''no'' vote is Judge Roberts' refusal to answer questions and their lack of sufficient knowledge as to where he stands.

It is a virtual certainty—in fact, you can strike ''virtual''—it is a certainty that the next nominee will have these questions and many more. Some would say that Judge Roberts would be replacing Chief Justice Rehnquist, so that when you have somebody perhaps on the same ideological line, although that is by no means certain from Judge Roberts' answers, the fact is you just do not know how Judge Roberts is going to rule on Roe v. Wade or other controversial issues. Again, I repeat, that is, in my opinion, as it should be as a matter of judicial independence. If there is any rule as to what happens, it is a rule of surprise as to what nominees do.

There is no doubt that the hearings in the Judiciary Committee have become more contentious because of concern about the highly controversial issues, and it is more than the issue of choice in Roe v. Wade, it is the issue of congressional authority versus the action of the Supreme Court in declaring laws unconstitutional. It is in the issue of religious freedom as embodied in the Religious Restoration Act where there is concern from both the right and from the left.

It was this kind of angst, this kind of unease which led me to the suggestion that the President defer a replacement for Justice O'Connor until the end of the June term, at a point where we would know a great deal more about Judge Roberts. But in the context where there are uncertainties as to two votes, it compounds the angst and anxiety as to what may occur.

I called Justice O'Connor, as I said in the meeting involving the President, Senator FRIST, Senator REID, Senator LEAHY, the Vice President, Chief of Staff Andy Card, and myself. I said I called Justice O'Connor and asked her if she would be willing to stay on—obviously quite a sacrifice—and she said she would if she was asked. But that is the President's call, and the President has indicated he is going to proceed in a timely manner where the expectation is the nomination will be made, my estimate would be, shortly if not immediately after a decision is made by the Senate on the Roberts nomination.

It is going to be a contentious hearing. The contentious quality was bubbling just below the surface during the hearing of Judge Roberts. There are a number of factors already stated, already articulated which would pose even more of a contentious issue.

I ask unanimous consent, although I don't know if I need to, to introduce a bill at this point, and it is right in line with the issues involved in the Roberts nomination. That is legislation that will call for televising the Supreme Court of the United States.

The PRESIDING OFFICER. Without objection, it is in order to introduce this measure. It will be received and appropriately referred.

Mr. SPECTER. I thank the Chair.

The nomination of Judge Roberts to be Chief Justice has created a great deal of interest, and I think the televised hearings have captured the imagination of the American people. I have long believed that the Court ought to be televised. There is a certain reluctance of the Court for television as a change in practice and as a change in procedure, but there is much to recommend it.

Televising the House of Representatives and the Senate has produced a great deal more public understanding on the important activities we undertake here and what we do.

The Supreme Court of the United States in 1980, in a case captioned Richmond Newspapers v. Virginia, set the rationale for televising the Court when the Supreme Court itself said:

> Instead of acquiring information about trials firsthand observation or by word of mouth from those who attend, people now acquire it chiefly through the print and electronic media. In a sense, this validates the media claim of acting as a service for the public. Media presence—
>
> The intended subject here—
>
> contributes to the understanding of the rule of law and the comprehension of the function of the entire criminal justice system.

That would be true for the entire justice system.

The Congress has the established authority to set the date when the Supreme Court starts its session. We have legislated that it should be the first Monday in October. We have the authority to establish the number of Justices—nine. We all recall the famous court-packing effort by President Roosevelt in about 1937. We could increase the number as we would choose. The Congress has the authority to establish a quorum, which is set at six for the Court to function. The Congress has the authority to establish a timetable for the disposition of habeas corpus cases, capital punishment. We establish the timetable for the Federal courts under the Speedy Trial Act. Of course, the final arbiter in all of these cases is the Supreme Court of the United States.

So if the Supreme Court should decide that legislation enacted by Congress to call for being televised was violative of the Constitution, they would have the final word. But in the context where the Supreme Court decides the cutting edge questions of our

day—the question of choice, the question of the right to die, the question of the Ten Commandments, the question of establishment of religion, the question of the free exercise clause, the question of the death penalty, the question of exonerating the innocent—it is very much in the public interest, in my view, to have the Supreme Court televised.

We all know the momentous decision of the Supreme Court in Bush v. Gore. On that occasion, when I walked across the green to attend the argument, the square block was overloaded with television trucks because of the enormous interest, but the television cameras could not go inside. At that time, Senator BIDEN and I wrote to the Chief Justice and asked that the Court be open for television. We received a letter of declination. As I recollect, the Court did have a transcript which was released right after the oral argument concluded.

I believe proceedings of the Court could be televised with due regard to the security and safety of the members of the Court. Under the proposed legislation, the Court would have the authority in a particular case to stop the television if it felt it necessary.

In conclusion, as we approach the confirmation of Judge Roberts to be Chief Justice, I urge my colleagues to take a close look at his record. The conventional wisdom is that the nomination is assured at this point. I believe that is true. Nevertheless, I think there is value in rolling up the score. We frequently cite the vote of 98 to 0 for Scalia; only three votes against Justice Ginsburg; 52 to 48 for Justice Thomas. I believe a strong vote for Judge Roberts would give him added stature. It is pretty hard to add stature to the Chief Justice of the U.S. Supreme Court, but I believe it would add a modicum of stature.

As the President ponders the nominee to replace Justice Sandra Day O'Connor, it is my hope that there will be balance maintained on the Court. With the uncertainties of the vote of Judge Roberts, the uncertainties of the vote of a new nominee, and the prospects of retirements in the immediate future, the composition of the Court could change, and the rule of law is structured on stability. The rule of law is structured on expectations being fulfilled, and reliance, and it is enhanced by not having sharp turns.

The nomination of Judge Roberts to replace Chief Justice Rehnquist may work out to be a substitution of people with about the same judicial approach. Although it is far from certain exactly how Judge Roberts will rule, there is no doubt that Justice O'Connor was a swing vote, tipping the scale. I believe that is a factor to be considered.

While I would like to see more women, a Hispanic, and more African Americans on the Court, I urge the President to name the very best person he can find. We could use a Brandeis or a Holmes on the Supreme Court. I am not saying we do not have one now, but if we do, we could use more.

President Bush disarmed his critics by nominating Judge Roberts with his extraordinary record, and I urge the President to nominate the very best person he can, regardless of gender, ethnicity, or any other factor.

I draw the attention of my colleagues to the full text of my remarks of Monday, September 19, 2005.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Alabama.

Mr. SESSIONS. Madam President, I appreciate the leadership of Senator SPECTER in this confirmation process. We stayed on track and on time better than at any time I can remember. We had a lot of people with a lot of strong views and ideas they wanted to express and they were given plenty of time to do that. We had 30-minute rounds of questioning and then 20-minute rounds. Some got more who asked for it. Judge Roberts was appropriately forthcoming under certain circumstances and appropriately failing to be drawn into discussions of cases that may come before him.

I think things went well. A lot of people doubted whether we would be in position to have a vote this week, but the Senator from Pennsylvania was tireless. He stayed as long as it took. He listened to all of it, chaired the hearings, and kept us going straight, and made sure on occasion the witness had a chance to answer. Sometimes he was given more questions and interruptions than he was given a chance to answer. The Senator did a great job and I want to thank him for that.

I also join the Senator in saying that one never knows what a judge will be confronted with 10, 12, 15, 20 years from now. We might as well get the best person we can get who can deal with those questions that are unanticipated now and who can construct a philosophy of the judiciary that will be healthy and faithful to the Constitution, to the people who have ratified that Constitution, who have elected the representatives, to be respectful of all of that, and who understands the proper role of a judge.

I think Judge Roberts meets every one of those qualities. I think he is an extraordinary individual. Everyone who has been watching the hearings has been very impressed. I think he represents the American ideal of what a judge should be. The President deserves great credit for nominating the best.

I asked Professor Fried of Harvard, who is a former Solicitor General of the United States and had himself argued cases before the Supreme Court—he is now at Harvard teaching philosophy of law—how would he rank Judge Roberts as an advocate before the Supreme Court, and he said the best, as so have certain legal magazines that rate the best lawyers in the country.

I think the people like him. I think his idea that judges should show modesty and be faithful to the Constitution, his expression that the greatest threat to the Court could be judicial activism, where the people feel the judges are not faithful to the Constitution and are imposing their political views on the people that are not required by the Constitution, that this is a threat to the rule of law because at some point in the future the Court may have to call on the American people to do things they do not want to do, they may not be popular, to be faithful to the Constitution. To erode and give away that good respect the American people have for the courts and the law would be a mistake.

I want to express how strongly I feel that our nominee is an extraordinary individual. I saw on C–SPAN today John Roberts' former coach and teacher, and he said he was the finest student we had in our school and the finest student the school has ever produced. He did not hesitate to say that. He coached him in wrestling. He played football. He was top academically in the class and cared about those kinds of things. He worked hard and he was honest. He said, I remember when he came up at graduation and they gave the award for the finest student in English, it was John G. Roberts; they gave the one for French, and it was John Roberts; in Latin, it was John Roberts; mathematics, it was John Roberts. He said nobody, none of the students, had the slightest doubt that he deserved those honors and he earned them, because of both his work and his intelligence.

John Roberts went to Harvard to do his undergraduate degree, finished Harvard in 3 years, not 4, and was magna cum laude on his graduation from Harvard in 3 years. Then he went to law school at Harvard, likewise did exceedingly well, and was selected for Law Review, which is a great honor for a student in law school to be selected for the Law Review. I suppose some of us might grumble, but most people would probably admit that the Harvard Law Review is the finest, most prestigious Law Review in the country. His fellow members of the Law Review elected him to be managing editor of the Law Review, which again is an affirmation of their respect for him and his abilities.

After law school, he clerked for Judge Friendly, one of the great circuit judges in America. This is the court of appeals that is just below the Supreme Court. I note that outstanding law graduates apply for these courts of appeal clerkships. There are not that many of them. They are very coveted and only the best students are selected.

Judge Friendly, one of the great circuit judges in the last 50 years in the United States, would have been very competitive. Many students would have liked to have clerked for him. He chose John Roberts.

After that, I am sure Judge Friendly recommended him—or however it occurred, he was recommended to Chief Justice Rehnquist. I believe Justice

Rehnquist was not chief at that time but a justice on the Supreme Court. He clerked for the Supreme Court, the very Court on which he will now sit. Trust me, it is an honor for a lawyer to be chosen to clerk for the U.S. Supreme Court, because they want the very best young lawyers who can help them decide the most complex cases. So I think that is something we should remember.

Then he is in private practice. He goes to the Department of Justice. He is called over as part of Fred Fielding's efforts to bring the brightest to the White House. He found him and snatched him away to the White House. He was White House counsel under President Reagan, helped President Reagan carry out his agenda, an agenda that 48 States affirmed when he was reelected by one of the largest votes in history.

Some have tried to say, oh, he worked in the Reagan White House. He was conservative and out of the mainstream. President Reagan carried 48 States. He was not out of the mainstream. We have some leftists in this country who are out of the mainstream, but I do not think because he worked in the Reagan White House anybody could suggest he is not a mainstream lawyer.

He later becomes principal Deputy Solicitor General in the Department of Justice. The Solicitor General represents the United States of America before the Supreme Court. That is the job many lawyers call the greatest lawyer job in the world, to be able to represent the United States of America before the Supreme Court. That is a great honor. He was the principal deputy. He argued cases there and in private practice. He has argued a total of 39 cases before the Supreme Court. I am sure there is no lawyer in America his age who has argued 39 cases before the Supreme Court. We have maybe a few lawyers in the Senate. I know JON KYL has argued two cases before the Supreme Court. I doubt there are any of us who have; maybe others who have done it. It will not be me. But 39 means he is a professional practitioner before the Supreme Court, a student of the Supreme Court, so good that when anyone else is preparing to make an argument for the Court, they want to have a moot court practice before John Roberts because he knows how the Court thinks, what the issues are, how the cases are handled.

I asked him to explain what a Chief Justice on the Court does and how the Supreme Court works. He explained in great detail about how cases are tried in the trial courts, the U.S. district courts, how every word is written down. They have juries. They have lawyers who argue the case before the juries. The judge makes rulings on the law and the evidence. After the case is over, a transcript is prepared. If someone wishes to appeal, they do so, and they point out what in that record is in error and argue that the case should be reversed or some other remedy. They go first to the court of appeals, such as where Judge Friendly served. We have 11 circuit courts of appeal and the DC Circuit in the United States. They review the record. The lawyers argue why this transcript proved a judge committed error or error occurred. They argue why the case should be affirmed or not affirmed. They submit briefs on that, citing the record and the detailed facts, and why they believe their views should be affirmed. It goes up that way. They have oral arguments. Then the court of appeals judges meet, discuss it, and they render a written opinion. Then if someone is not happy with that, they can appeal to the U.S. Supreme Court.

All of this is already prepared before it gets to the judge. They have oral arguments, and then they have briefs. Then friends of the court submit briefs and everybody can submit briefs.

The PRESIDING OFFICER. The time reserved for the majority has expired.

Mr. SESSIONS. Madam President, I ask to have 1 minute to wrap up.

Mr. LEAHY. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. They meet with their fellow judges, they read the law and the transcripts, and they make a decision after all of that.

I asked him, isn't that why, Judge Roberts, you ought not to blithely, here in this Senate committee room, start expressing opinions on cases when they have not had all the study in advance to clarify the issues?

He answered that yes.

Madam President, I see the distinguished ranking member of our committee, Senator LEAHY. I will note he has worked hard to make sure that every opportunity has been presented on his side. He had every question answered. He got extra time for people who wanted extra time. But after hearing it all, I think he made the right decision in his choice to vote for Judge Roberts. He was an effective advocate for his views of his members and at the same time I think he made an independent decision that I respect. I enjoyed working with him and I think we did a pretty good job with these hearings—although my daughter told me not long ago, she said: Daddy, it was pretty clear who the brightest bulb in that room was, and it was not the Senators.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time from 2:30 until 3:30 p.m. will be under the control of the Democratic leader or his designee.

The Senator from Vermont.

Mr. LEAHY. Madam President, we are beginning our debate today on the Roberts nomination. We know the vote will not come today, but I urge Members for him and against him to come and speak. I say that because there are very few decisions we face here in the Senate that are as consequential or as enduring as the one we face today. Few in our Nation's history have served as Chief Justice of the United States. It is a unique and significant position. Once one assumes it, he or she holds it for life. To put that in perspective, we have had 43 Presidents. We have only had 16 Chief Justices of the United States.

I explained last week why I was supporting John Roberts's nomination to be Chief Justice. It was neither an easy decision nor was it a hurried decision. But it was a decision that my conscience led me toward.

I thank Senators REID, KENNEDY, KERRY, BINGAMAN, BOXER, PRYOR, OBAMA, NELSON of Nebraska, and others for their thoughtful remarks these past few days. I commend to the Senate each of the statements on both sides made in the Judiciary Committee meeting on Thursday.

I must say, as the Democratic leader of that committee, I believe the Democratic Senators distinguished themselves by the thoughtful manner in which they proceeded. The hearing record upon which the Senate can draw in making this decision is as full as it is largely through their diligence. Now each Senator has to carefully weigh this question and decide it for himself or herself.

Regardless of how Senators decide to vote on this nomination, the Democratic members of the Judiciary Committee can all be proud that we have done our job, we have fulfilled our constitutional responsibility to fully, fairly, and openly review this nomination on its merits. For that I thank them all.

I note that it is true that Democratic Senators are not all voting in lockstep. Each Senator individually gave this nomination serious consideration. They each honored their constitutional duty and their obligation to the American people in reviewing this nomination.

Democratic Senators kept open minds throughout this process, unlike some partisan cheerleaders who rallied to endorse the White House decision long before the first day of hearings opened. I urged my colleagues on this side of the aisle to wait until we had the hearings before they made a decision either for or against the nominee. I thought that was the most responsible thing for any Senator to do.

I have served in the Senate for more than 30 years, much of that time on the Judiciary Committee. This is the 11th Supreme Court Justice nomination on which I cast my vote. I am one vote out of 100, but I recognize that those 100 of us privileged to serve in the Senate are entrusted with protecting the rights of 280 million of our fellow citizens. Just think for a moment, the Chief Justice is there to protect the rights of all 280 million Americans. Only 101 Americans can have a say in who is going to be Chief Justice: The President, of course, with the nomination, and then the 100 Members of the

U.S. Senate who have to stand in the shoes of 280 million Americans.

There is no entitlement to confirmation for lifetime appointments on any court or any nomination by any President, Democratic or Republican. Americans deserve a Supreme Court that acts in its finest tradition as a source of justice. The Supreme Court must be an institution where the Bill of Rights and human dignity are honored, preserved, and protected.

As I considered this nomination, I reflected on the hearings and my meetings with Judge Roberts. While I believe Judge Roberts should and could have been more forthcoming, I was encouraged by some of his answers to my questions both at the hearings and during our nearly 3 hours of face-to-face meetings.

I took Judge Roberts at his word when he gave the committee assurances that he would respect congressional authority. His steadfast reliance on the Supreme Court's recent Raich decision as significant precedent, contravening further implications from Lopez and Morrison, was intended to reassure us that he would not join in what has been a continuing assault on congressional authority. I heard him and I rely on him to be true to the impression he created. To do otherwise would greatly undermine Congress's ability to serve the interest of Americans, to protect the environment, to ensure equal justice, and to provide health care and other basic resources that are so vitally important to some of our neediest citizens. I think he knows that now.

I was also struck by Judge Roberts's admiration for Justice Robert Jackson and for Justice Jackson's protection of fundamental rights, including the right of unpopular speech under the first amendment. We all know we don't have to fight to protect popular speech. It protects itself. We have to fight to protect unpopular speech under the first amendment. Justice Jackson's protection of unpopular speech, and his willingness to serve as a check on Presidential authority, are among the finest actions by any Justice in our history.

I expect Judge Roberts to act in the tradition of Justice Jackson and serve as an independent check on the President. When he joins the Supreme Court, he can no longer simply defer to Presidential authority. We know we are in a period in which the executive has had a complicit—and I believe compliant—Republican Congress that has not served as an effective check or balance. Without the Court to fulfill its own constitutional role as check and balance, excess will continue; the balance will be further tilted.

Justice Roberts said he went to law school because of his love of the law and the rule of law. I was struck by that comment. I was struck by it because it was the same thing that motivated me when I entered Georgetown Law School here in this city. The purpose of the law is to serve justice. A Justice on our highest Court needs to know in his core, in his entire being, that the words engraved in the Vermont marble on the Supreme Court building are not just ''Under Law'' but ''Equal Justice Under Law,'' and that under our great national charter it is not just the rule of law that a Justice must serve but the cause of justice. The rule is there so we can serve the cause of justice.

As Chief Justice, John Roberts will be responsible for the way in which the judicial branch administers justice for all Americans. I was encouraged that he said he would provide a fifth vote in staying an execution when four other Justices voted to review a capital case. Effective judicial review is all the more important in an era in which so many innocent citizens have been sent to death row.

I respect those who come to different conclusions about this nomination. Actually, when I listened to those who came to different conclusions, I readily acknowledge the unknowable at this moment. Perhaps they are right and I am wrong. Only time will tell. But in my judgment, in my experience, especially in my conscience, I find it better to vote ''yes'' than ''no.'' My Vermont roots, which are deep and cherished in my family, have always told me to go with my conscience and that is what I have done in this decision.

Judge Roberts is a man of integrity. For me, a vote to confirm requires faith that the words he spoke to us had meaning. I take him at his word that he does not have an ideological agenda and that he will be his own man as Chief Justice. I take him at his word that he will steer the Court to serve as an appropriate check of potential abuses of Presidential power. I hope and trust he will.

This nomination process we complete this week provides some important lessons for the President as he renews his efforts to select a successor to Justice O'Connor. Last week Chairman SPECTER—I might add, parenthetically, a chairman who ran a superb hearing in the best tradition of the Senate, making sure that both Republicans and Democrats were heard and that questions were asked—and I, along with the Republican and Democratic leaders of the Senate, met with President Bush. I urged him to follow through with meaningful consultation this time, to share with us his intentions, and to seek our advice before he chooses; to use both parts of the advice and consent clause of the Constitution.

I remain concerned by the administration's lack of cooperation with the Senate on Judge Roberts's nomination. We did start off well with some early efforts at consultation. I praised the President for that. But then those early efforts didn't result in meaningful discussions.

The President's naming of Judge Roberts, first to replace Justice O'Connor and then swapping that for the vacancy left by Justice Rehnquist, came as a surprise both to Republicans and Democrats, not as a result of meaningful consultation. I believe there could and should have been consultation with the Senate on the nomination of someone to serve as the 17th Chief Justice of the United States, and I am sorry there was not. Many other Senators, including many Republican Senators, have offered similar advice.

Chairman SPECTER has appropriately counseled that the next nominee should be someone who promotes stability on the Court, much like Justice O'Connor. Senator GRAHAM urged the President to listen to Democrats and what we have to say as he considers his next nominee. What we are saying could easily be summed up by quoting the President's campaign promise. We are asking him, in this case especially, to be a uniter, not a divider, for the sake of the country—not for the sake of the 100 Senators but for the sake of the country.

I thought the White House did not help the Roberts nomination by withholding information that has traditionally been shared with the Senate. The Administration treated Senators' requests for information with very little respect for the constitutional role the Senate is expected to fulfill in this process. Actually, the Administration stonewalled entirely the very narrowly tailored request for a very small number of important work papers from John Roberts's time as the principal political deputy to Kenneth Starr at the Solicitor General's Office. This decision did not help the nominee. I suspect he could very easily have answered questions about those papers. But the choice was taken out of his hands, and the choice was made at the White House.

That should not be allowed to establish a new standard because it would override the precedent from Chief Justice Rehnquist's hearings and others. Previous Presidents have had the appropriate respect for the constitutional process and worked with the Senate to provide such materials.

I urge the Administration to go back to precedent, to work with us and cooperate on future nominations.

Finally, some Republican Senators did not help the confirmation process by urging the nominee not to provide fuller answers during the course of the hearings.

I say that because, again, I remind all Senators, it would be the same thing whether it was a Democratic President who made nominations. No matter who makes the nomination, Democratic President or Republican President, we are the only 100 people in this country out of 280 million Americans who get to vote on the nomination and we should not start off by asking a nominee or telling the nominee not to answer any questions.

I can't imagine too many of our constituents would like that. I know thousands of questions were mailed in by Americans from all over who would

have liked to ask questions, and they could not be asked.

These hearings which we hold in the Senate are the best and only opportunity for the American people to hear from the nominee on important issues that affect all of us. The hearings we hold are the best and only opportunity to hear directly from the nominee about his or her judicial philosophy.

The President asked for a dignified process and an up-or-down vote. That is what we accomplished in the Judiciary Committee. With the Senate vote this week, we will complete our action and grant the Senate's consent. The hearings were dignified and they were fair. Chairman SPECTER has every reason to be proud of what the committee accomplished under his leadership.

And I must say, I was personally very humbled by what the Democratic leader, Senator REID, said about the senior Senator from Vermont this afternoon on the Senate floor. I appreciate hearing that from my dear friend, Senator REID.

With the benefit of lessons learned from this nomination, the President is facing a new opportunity to unite this country around a nominee to succeed Justice O'Connor.

I hope the President and those around him are listening this afternoon.

Now more than ever—with Americans fighting and dying in Iraq every day, with hundreds of thousands of our fellow Americans being displaced by disasters here at home—now more than ever is the time to unite rather than divide this Nation. The Supreme Court belongs to each and every American, not to any political party or any faction. For our country's sake, for the sake of all Americans, no matter what their politics might be, I urge the President to make a choice that unites us and doesn't divide us.

I will have more to say as the week goes on.

I see the distinguished Senator from Maryland in the Chamber. I yield to her such time as she may need.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you, very much.

Madam President, I rise today to address one of the most significant and far-reaching decisions a Senator makes—the vote on the confirmation of a Supreme Court Justice.

This vote will have an immense impact on current and future generations, because we are voting on a person who will lead the Court for the next 20 years.

I compliment Chairman SPECTER and Ranking Member LEAHY for the way the whole process within the Senate was conducted.

I think we owe to the President, as well as to the nominee, a dignified process that focuses on intellectual rigor, substantive discussion, and plain good manners. I believe overall that process was indeed dignified and open.

This vote is crucial. A Senator is only called upon to make two decisions in our career that are either irrevocable or irretrievable. One is the decision to go to war. Once we vote to go to war, to put our troops in harm's way, we cannot say a day later, Oops, we changed our minds or, 6 months later, cut off the money. Once they go, they go, and we have to stick with them.

The other is the confirmation of members of the Supreme Court. Those are lifetime appointments, and they can only be removed for an impeachable offense, to be tried here in the Senate.

So this decision is among the top two that we are called upon to make.

We make budget decisions, and we can change it later. We make a legislative decision—most of our legislation is for 3 years' authorization we can always change it. But not this decision.

The people of Maryland have entrusted me with the right to make this decision, and I take it seriously. I really pondered this and what I thought about this nomination. Two of my main questions were: No. 1, what will it mean for the fundamental constitutional liberties that has meant so much to so many? And two, what will a Chief Justice Roberts mean to our future?

After a thorough and careful review of his record and his testimony, I must state now that I will oppose the confirmation of Judge Roberts to be the Chief Justice.

I do so because I have too many doubts about the direction a Roberts Court will take us—persistent, nagging doubts about his positions on nondiscrimination, and the right of privacy in personal decisions, and in public policy.

On nondiscrimination, I just couldn't get to what his views were. Is it thorough? Is it broad? Is it narrow? On the issue of privacy, his views sounded eerily like those of Clarence Thomas's that were given to reassure us, only to find that they are not what we heard.

On the issue of discrimination, I am looking at very specific issues such as the Voting Rights Act, Americans with Disability Act, title IX, which has meant so much to combat gender discrimination in education.

And, of course, on the right of privacy. What will this mean for personal decisions related to a woman's reproductive choice, or public policy in terms of where we are going to safeguard our records and safeguard ourselves.

When I decided how I would vote on the nominee, I looked at three threshold criteria: One, is the nominee competent? Second, is the nominee a man of integrity?

I believe every Senator knows, having both met Judge Roberts and from also reviewing his background, he is competent. He is endorsed by the American Bar Association. I also truly believe he is a man of personal integrity.

But what about the nominee protecting core constitutional values and guarantees that are central to our system of government? I really do not know the answer to this question.

Based on his writings and his testimony, as I said, I am left with these persistent doubts about whether he will safeguard civil rights, the right to privacy, and equal protection under the law.

I have approached this nomination very seriously. I have approached it with an open mind and an open door.

I have personally met with Judge Roberts. I found him to be very intelligent, to be very affable. Although he is personally appealing, personal demeanor is not synonymous with personal philosophy. Personal demeanor is not synonymous with judicial philosophy. It is not his demeanor that we are voting on. We are voting on what will his judicial philosophy mean to the Court, and particularly with his being its Chief Justice.

When I looked at the hearings, they occurred as I was moving my Commerce-State-Justice bill. I put in a couple of shifts, which I know the Presiding Officer does as well—one shift being here in the Senate with my colleague, Senator SHELBY, getting an appropriations bill through, and then I would go home and do a second shift and watch the Roberts hearings on C–SPAN so that I could hear his words personally about those answers.

Then, after listening to the hearings, I reviewed the testimony. I reviewed his writings and I also reviewed the testimony of others.

I was disappointed that we didn't have access to documents from 16 cases that he prepared while he worked for Solicitor General's office in the previous Bush administration, which would have given us insight, even though similar documents were given when Justice Rehnquist was nominated.

I tried to get insight into his legal reasoning and judicial philosophy.

Is he smart? Yes. Is he experienced? Yes. As a young man, was he flip and a bit cheeky? The answer is yes. But put me in that column, too. I understand that. We all mature. But as we mature, we sometimes distance ourselves from those remarks. Yet Judge Roberts did not distance himself from those remarks.

I was puzzled by it. I did not quite understand it. I read and pursued it further.

In the hearings, he had the opportunity to let us know whether he would ensure personal rights, but he didn't clear up the uncertainty. He didn't back away from his record and his writings. He wouldn't tell us if he shared the views of his clients. Again, he left too many doubts about whether he will safeguard the rights that Marylanders and all Americans rely on each day.

He did say that he would follow the rule of law. I believe that. But you

know, coming to a decision in the Supreme Court, unlike the lower court, is not necessarily only following the law. It is not a mechanical decision. It is not like punching in a legal question, you go to the 15 precedents and out comes the printout. This is interpretation of the law at the highest level. And the Supreme Court has the authority to create precedent, not only follow precedent.

So I couldn't get to where Judge Roberts was going. Take an example such as civil rights. One of the most important civil rights is the right to vote—cherished, fought for both through social movements and our wars. Yet Judge Roberts left me with serious doubts.

One of the most compelling testimonies during the hearing was that of Congressman John Lewis. He was a hero of the civil rights movement. He marched side by side and hands on with Dr. Martin Luther King Jr. When John Lewis speaks, we listen. He raised questions about whether Judge Roberts would support the basic guarantee of the Voting Rights Act, the law that ensures every citizen may vote and that there should be no barriers, no publicly sanctioned barriers to participation in the voting process. Yet as a young lawyer in the Reagan administration, Roberts held a very restrictive view.

John Lewis spoke about section 2 of the Voting Rights Act, which is an important section because it seeks to remedy not only intentional discrimination and barriers to participation but also the effects of discrimination on under represented groups.

Judge Roberts held a very restrictive view, as I said. He argued that only intentional discrimination violated the law.

If that argument prevailed, it would have made it impossible to change discriminatory voting practices that stood in the way of African Americans voting and holding elective office.

Let us take the poll tax, for example, a repugnant and despicable practice that has now been outlawed. The poll tax was a barrier that prevented African Americans from voting. But what could we do? Look at one person at a time? No. Section 2 bars it, because it was a discriminatory practice that affected a whole group of people.

During the hearings, Judge Roberts could have clarified or changed his views.

Yet he said nothing to distance himself from that very narrow legalistic viewpoint that would have maintained barriers to participation, and we have no idea what principles he might apply to a case that would come before the Court like, for example, on the so-called voter verified paper trail. We do not know today where he stands on such important voting rights issues.

Now to disability rights. He left doubts about whether he would provide disabled Americans with guarantees under the law for equal opportunity, particularly to education. Again, going back to being that lawyer in the Reagan administration, he wrote a memo attacking a Federal court decision that would have provided a deaf child with learning tools. He thought this was too burdensome on the local school system, local government and, therefore, the State. He believed that States should not be required to provide these same equal opportunities to handicapped children and that the burden it placed on the states had to be evaluated. He called the lower court's decision an activist one.

What would this mean for disabled children? What would this mean for his interpretation of the Americans with Disabilities Act? This raises doubts for me as to if he would apply a cost-benefit analysis to other areas of discrimination. Certainly when we look at disability and the equal opportunity or an opportunity for education, we have to look at the benefit, not at the cost.

And now title IX. That has changed the face of American scholarships and of American sports. Title IX, for those who might not be familiar with it, prevents gender discrimination in education. It says that schools that receive Federal funds can't treat men and women differently. That means there has to be parity—not sameness but parity—in the number of sports programs, access to classes, and opportunities for scholarships. That meant there had to be girl's soccer teams at college just like there were boy's football teams; that there had to be girl's lacrosse just like there was boy's lacrosse.

Let's take a look at what that has meant. It was phenomenal. All of a sudden, girls were getting scholarships for basketball, for playing lacrosse, and for playing soccer. Aren't we proud of what we have done? We can only look at the Olympics and see our so-called ''all star'' basketball team lost to Puerto Rico, but our girl's team brought home the gold. People such as soccer player Mia Hamm passed the torch to the next generation, which will go on and win the gold and give us such honor. That is what title IX meant. It meant if you wanted to go to school and sports was your thing, you would not be restricted because you were a girl.

In his writings, Judge Roberts argued that the only part of the school receiving direct Federal aid but not the whole school would not have abided by title IX protection. That would have meant schools could discriminate in their athletics or scholarships even when another part of the school got federal funds. In his testimony, he did nothing to back away from this view.

What would the Roberts Court mean to millions of girls who now have access to scholarships? What would this mean to thousands of girls who right now this afternoon are heading for practice in middle school, working at it in high school, and ready to go? In my own home State, we are known for producing Olympic gymnastics stars, primarily out of Montgomery County, stars such as Dominique Dawes. Right now at that gym in Montgomery County are young girls working to either be able to go on to the Olympics, or if they do not make the Olympic team, on to make the college team. We should never close the door to that kind of heart and soul and hard work because of gender. Where would the Roberts Court be on that? Would he close that door? I am not so sure. That is why I come back to these nagging doubts.

Finally, in the area of the constitutional, protected right to privacy, I appreciate Judge Roberts speaking on the right to privacy. He certainly said more on it than some other nominees have. Yet what he said does not tell us what he thinks about how far the right of privacy extends. He said he supported Griswold. Griswold upheld the right of married couples to buy contraception. Connecticut banned the sale of contraception to married couples. So under the right of privacy, the Supreme Court said that if you are married, you have the freedom to buy family-planning mechanisms.

In many of his answers, he sounded as if he was assuring members that the right of privacy is settled law, stating that ''I believe in precedent,'' et cetera. But many of these answers sounded like Clarence Thomas, eerily like Clarence Thomas. Thomas said there is a constitutional right to privacy. He did not say how he would apply it to the most personal choices or what it would mean to public policy. Since Clarence Thomas has gone to the Supreme Court, we know he does not quite follow what we thought he was assuring us he would. In fact, I don't know if Judge Thomas really supports the right of privacy in the Constitution.

Roberts followed the same script. He refused to clarify his previous dismissal of Roe v. Wade, nor would he elaborate on what the right to privacy includes. What would that mean to the future of reproductive rights? What would that mean to privacy rights in general?

This is important because I am voting not only about today, I am voting about tomorrow. If Mr. ROBERTS is confirmed at age 50, he will be on the Court for the next 20 or more years. And we wish him good health. But just think how profoundly society has changed with the internet and information technology. Where we were 20 years ago. Where was the Internet 20 years ago? We did not have laptops; laptops were big boxes. What about 30 years ago? What was the computer? They were big machines in big warehouses.

Twenty years ago, we would not have thought about privacy rights in this context. But now, because of the Internet and computerization, we think about all the issues related to our right of privacy. Think how they can plunge in with your financial records, your medical records, the so-called data-

mining where they know everything about you and find out all your moves. Who do you want to have access to that? Who do you want to protect your basic rights?

What will technology mean 20 years from now? What will that technology mean in terms of right of privacy? How do we need to protect our privacy?

Today have a national debate on privacy, the right for security of our country versus our own personal privacy. The right of search. The right, literally, of intrusion in our records. The PATRIOT Act would give us some sets of rules; the ACLU would frown on others. It is likely many of these decisions will go to the Supreme Court. Where will those decisions be made? They have to be made to serve the national interest but also to serve the principles of the Constitution. I am not dictating what the decision should be, but I can dictate who I want on the Supreme Court to listen to that delicate balance between preserving the security needs of our country with one's ability to be left alone from the intrusions of government.

How would Judge Roberts apply the right of privacy in a world where all our most personal health and financial records can be easily stored and shared?

So here we are now at this decision point. As I have looked at this, I have too many doubts about what Judge Roberts will mean for the Supreme Court—caused by what he said and what he didn't say. I believe the American people were entitled to know what he thinks. The American people are entitled to know if judge Roberts will be a protector of their most basic and fundamental rights. I would have been more comfortable if in any way he would have said how he was different from that young, cheeky lawyer trying to write up attention-getting briefs. Something that would have moved him to say: Oh, that was my client, not me. I never wanted him to say how he would rule on cases in the future or any pending before the Court. But I would have liked to have known who is this man for whom I am voting. What he believes is what he is and it will shape the Supreme Court for the next 20 years.

Several times, I came right up to the threshold. As I said, there are many magnetic aspects about the Roberts nomination, but at the end of the day and after careful review, I have too many doubts about his commitment to nondiscrimination, the right of privacy, and equal protection under the law. So when my name is called for this nomination, I will vote no.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak as in morning business for a few minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The remarks of Mr. DORGAN are printed in today's RECORD under ''Morning Business.'')

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. SNOWE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the time from 3:30 to 4:30 will be under the control of the majority.

The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I rise today to speak to the nomination of Judge John G. Roberts, Jr. to be the next Chief Justice of the United States of America. After a careful and considered review of his testimony before the Senate Judiciary Committee, his overall record, and a personal meeting with Judge Roberts in July, I have concluded that Judge John Roberts should be confirmed as the 17th Chief Justice of the United States.

I first want to express my deepest gratitude to my good friend and colleague, Senator SPECTER, who—as Chair of the Senate Judiciary Committee—was extraordinary in leading the nomination process to fill the first Supreme Court vacancy in 11 years, the longest such interval since the administration of President James Monroe 181 years ago. Together with Ranking Member LEAHY, Senator SPECTER ensured a thorough, rigorous, and civil examination of the individual who now comes before the full Senate for a confirmation vote.

I have not arrived at my decision lightly. It has been said that, of all the entities in government, the Supreme Court is the most closely identified with the Constitution and that no other branch or agency has as great an opportunity to speak directly to the rational and moral side of American character, to bring the power and moral authority of government to bear directly upon the citizenry.

The Supreme Court passes final, legal judgment on many of the most profound social issues of our time. The Court is uniquely designed to accept only those cases that present a substantial and compelling question of Federal law, cases for which the Court's ultimate resolution will not be applied merely to a single, isolated dispute but, rather, will guide legislatures, executives, and all other courts in their broader development and interpretation of law and policy.

In the end, ours is a government of both liberty and order, State and Federal authority, and checks and balances. The remarkable challenge of calibrating these fundamental balance points is entrusted, ultimately, to the nine justices of the Supreme Court of the United States.

To help meet the extraordinary challenges of this role, any nominee for the Court must have a powerful intellect, a principled understanding of the Court's role, and a sound commitment to judicial method.

Moreover, the nominee for Chief Justice must also, among other leadership skills, engender collegiality and respect among all of the justices in order to facilitate the consensus of majority, command the respect of lower Federal courts, and faster cooperation with the States' highest courts. And the nominee must have a keen understanding of, and a disciplined respect for, the great and tremendous body of law that precedes them to warrant our consent.

These are the threshold qualifications against which a person chosen by the President of the United States to serve as just the 17th Chief Justice of the United States must be measured. And all the more so when our Nation would undoubtedly bear the mark of the nominee for decades to come.

Indeed, given the age of this particular nominee, it is not unreasonable to conclude that John Roberts may indeed serve longer than Chief Justice Marshall, who—with his 34 year tenure—still stands as our longest serving Chief Justice. If confirmed, Judge Roberts could well directly impact the Nation for a half century and for decades beyond. He would conceivably be entrusted with the ''care of the constitution'' for the next 40 years.

It is against the backdrop of this reality that we also evaluate the record of Judge Roberts. And from a professional standpoint, it is clear that Judge John Roberts is one of the most highly-qualified individuals ever to be nominated for the Supreme Court, given his experience clerking for both the Second Circuit Court of Appeals and the Supreme Court, and serving as counsel to a President, Attorney General and Solicitor General and given he is one of the most respected lawyers in the Nation who has argued 39 cases before the Supreme Court and currently serves on the second highest court in the land with unanimous consent of this Chamber just a few years ago. So I applaud the President for selecting an individual who indisputably possesses the professional credentials to serve as Chief Justice.

Concurrently, however, I believe there are four additional threshold qualifications that are critical to assess and evaluate the nominee. They are judicial temperament, integrity, methodology, and philosophy, and by their nature, are more challenging to measure. That is why I have arrived at my conclusions based on a thorough analysis of the complete and accumulated record accompanying Judge Roberts's nomination.

With regard to the matter of judicial temperament, the members of the Judiciary Committee rightly and vigorously questioned the nominee on the tone and content of memoranda he authored as counsel to the Reagan administration in the 1980s.

Because these memos presented opinions on such critical issues as civil rights, the right to privacy, and gender equity—including a 1984 memorandum regarding a letter I initiated as a member of the U.S. House of Representatives requesting the Administration not to intervene in a Federal court decision on the matter of women receiving lower pay because they often work in different jobs than men—I would have welcomed a more direct and forceful refutation of these documents.

At the same time, Judge Roberts did testify that, ''Of course gender discrimination is a serious problem. It's a particular concern of mine . . . and always has been. I grew up with three sisters, all of whom work outside the home. I married a lawyer who works outside the home. I have a young daughter who I hope will have all of the opportunities available to her without regard to any gender discrimination . . .''

Further, when probed about memoranda on vital civil rights issues, Judge Roberts's stated to the committee that he believes Congress has the power to guarantee civil rights for all Americans.

As an example, when he was asked, ''Do you believe that the Court had the power to address segregation of public schools on the basis of the Equal Protection Clause of the Constitution?'', Roberts responded, ''yes''. And when questioned by Senator KENNEDY, John Roberts agreed with the approach taken by Justice O'Connor in upholding an affirmative action program within a university's admissions policy.

With regard to the right to privacy, in responding to concerns that he characterized this fundamental right as a ''so-called right to privacy'' in one Reagan administration memorandum, Judge Roberts testified that he does believe the Constitution guarantees such a right, that he was representing the administration's views in his memorandum, and he elaborated that this right emanates from at least five different sources—the first, third, fourth, fifth, and fourteenth amendments—with the due process clause of the 5th and 14th amendments applying substantively as well as procedurally with respect to the right to privacy.

To quote Judge Roberts: ''There's a right to privacy to be found in the liberty clause of the 14th Amendment. I think there is a right to privacy protected as part of the liberty guarantee in the due process clause. It's protected substantively.'' And specifically, he testified that he ''agree[d] with the Griswold Court's conclusion that marital privacy extends to contraception'' and agreed with the later Eisenstadt decision that confirmed this right for unmarried couples as well.

And finally in regard to the qualification embodied by judicial temperament, Judge Roberts offered the committee that some of the memoranda in question owed their content to a more youthful discretion some 25 years ago and that others merely reflected the views of his clients.

In the end, whatever one takes from the universe of exchanges before the committee, I have concluded that the combination of this testimony with the judge's current reputation among lawyers and peers for discretion, modesty, and humility is the more accurate and contemporaneous measure of the man whose name stands before us today.

And that conclusion is buttressed by an examination of another of the threshold qualifications—judicial methodology—which directly reflects a judge's commitment to the essential tenets of fairness and judicial integrity.

In making this assessment, it is most instructive to consider the emphasis Judge Roberts has placed on judicial process in adjudicating cases. Rather than a ''top down'' approach wherein a decision is made and then the opinion is written to support that position, Judge Roberts has espoused a ''bottom up'' approach to decision-making—meaning that he will work through the specific facts and law of each case, and then arrive at a conclusion based on that analysis.

As regards judicial integrity, I believe we can all agree it is absolutely essential that a judge be fair and open minded. Our citizens simply must have confidence that a judge who hears their legal claims does not do so with a closed mind.

A judge must be truly committed to providing a full and fair day in court, and to arriving at decisions based on the facts and applicable law, not on any personal agenda or ulterior motive. For it is when the latter occurs that the public justifiably loses faith in the independence and fairness of our courts.

I conclude that no such faith should be lost here with Judge Roberts. He is, by all accounts, a man of sound character whose integrity is widely respected by Democratic and Republican lawyers alike.

To illustrate the essence of his judicial integrity, I recall during the course of our meeting in July that he indicated it was not uncommon for him to author an entire legal opinion before reaching the conclusion that the reasoning was wrong leading him to a different decision.

He also spoke at length about his year as a law clerk to the late Judge Henry Friendly of the Second Circuit, one of the most respected legal minds of our time, and a mentor and legal role model for Judge Roberts.

He recounted how Judge Friendly was assigned the duty of writing an opinion for the three judge panel that heard a certain case. But once Judge Friendly began trying to write what was supposed to be the majority opinion, he realized that the reasoning behind the ruling simply was not sound.

So after a number of failed attempts, Judge Friendly finally circulated a folder to each of this colleagues containing two opinions, with this note attached,—''The first opinion fulfills my obligation for writing the majority opinion. The second is my dissent in the case.'' Judge Friendly's ''dissent'' was so persuasive that it ultimately became the majority opinion.

Again, this is reflected in Judge Robert's approach that is demonstrated in his methodical writings and decisions.

While serving on the DC Circuit Court of Appeals between 2003 and 2005, John Roberts wrote opinions in 49 of 169 cases. And his final rulings in those 49 cases bear the very balance of his analysis. For example, he has ruled both for and against the government, both for and against corporations, and both for and against labor unions.

Moreover, he has shown a capacity for consensus, writing separately in only 7 of the 169 cases before the Circuit Court. This record of collegiality would bode well for the current Supreme Court which can benefit from more consensus opinions.

And of the 49 opinions Judge Roberts authored, only seven were appealed to the Supreme Court and all seven were denied. Again, all of these facts stand in testament to the meticulous methodology and the ''bottom up'' approach followed by Judge John Roberts.

I recognize that some believe that the fourth and final threshold qualification I referenced—the matter of judicial philosophy—should be a factor for Presidents, but it should not be one the Senate considers in its confirmation process. I respectfully disagree.

In my view, the Senate must also consider the nominee's sense of the limits and horizons of the great promises of our Constitution, and of the nominee's specific view of the proper role of the Supreme Court in deciding whether to take such cases and, if so, the method used to rule upon them.

The inquiry into Judge Roberts' judicial philosophy assumed particular significance for all of us who value the Court's landmark rulings. Decisions protecting the rights of privacy, of civil rights, and of women seeking equal protection in the workplace—just to name a few—comprise an important and settled body of the Court's case law.

Entire generations of Americans have come to live their lives in reliance upon the Court's rulings in these key areas, and overruling these precedents would simply roll back decades of societal advancement and impose substantial disruption and harm.

Therefore, central to the question of a nominee's judicial philosophy is his views on one of the cornerstones of jurisprudence, and that is, judicial precedent. Because it was once said—by a

Professor Walter Murphy—the Court is bound by the ''wisdom of the past, not the free choice of the present.''

On this vital matter, John Roberts has firmly stated to me his belief that precedent plays a crucial role in the judicial process, and the fact, a precedent has been directly challenged and upheld deserves respect from the Court.

In the course of our July meeting, John Roberts expressed to me that judges must keep in mind that they are not the first ones to address most legal issues that arise, and that stability in the law is key to maintaining the legitimacy of the courts. When I solicited his thoughts with respect to, Chief Justice Rehnquist's decision in the Dickerson case to uphold the Miranda decision even as the Chief Justice Rehnquist opposed Miranda itself, John Roberts concurred with the Chief Justice's principled deference to the doctrine of precedent.

As Judge Roberts later indicated to the judiciary committee:

> I do think that it is a jolt to the legal system when you overrule a precedent. Precedent plays an important role in promoting stability and evenhandedness . . . It is not enough that you may think the prior decision was wrongly decided.

Furthermore, Judge Roberts is on record stating that nothing in his personal beliefs, including his religion, would prevent him from faithfully applying the laws of our land. As well, he indicated that nothing in his personal views would prevent him from applying Supreme Court precedent as governed by the doctrine of stare decisis.

Thus, he acknowledged the crucial interest by the doctrine of stare decisis to promote stability and predictability, and therefore respect for the law. This commitment to stare decisis takes on, of course, a special significance for this issue of privacy that I and so many Americans accept and embrace as a basic and established right. So, essentially, with regard to a landmark case such as Roe v. Wade, Judge Roberts has outlined the process he would apply in reviewing such a challenge.

Specifically, Judge Roberts explained, that, in essence, Roe is buffered by the Casey decision, which affirmed the essential holding of Roe and therefore serves as the more immediate precedent of the Court.

And he responded to Senator SPECTER that Roe is ''settled as a precedent of the court, entitled to respect under principles of stare decisis. And those principles, applied in the Casey case, explain when cases should be revisited and when they should not. And it is settled as a precedent of the court, yes.''

Mr. President, given the totality of the record before us, I have concluded from his testimony regarding both his judicial methodology and his judicial philosophy that Judge Roberts is not predisposed to overturning the settled precedent represented by Roe. Obviously, none of us can know with certainty how Judge Roberts would vote on any particular case. But we can assess his methodology and analysis in approaching cases, based on his responses to questions posed by the committee throughout this confirmation process.

Finally, in meeting with Judge Roberts, I also expressed my view that Justice Sandra Day O'Connor's approach on the Court epitomizes a critical nexus between the decisions of the United States Supreme Court and the ''real world'' impact of those decisions on the lives of the American people. As Justice Frankfurter once wrote, the most fundamental questions that arise from the Constitution are decided ''not from reading the Constitution but from reading life.''

That sense of perspective will be critical in fulfilling the enormous responsibility Judge Roberts will have serving as Chief Justice. And Judge Roberts has indicated in compelling terms that his approach is to stand back and consider the larger implications of any future ruling and I would encourage him to continue with that model on the Court.

It is not an exaggeration to suggest that Judge John Roberts has the potential to become one of the preeminent Chief Justices in modern times.

Of course, no Member of this body can forecast with 100 percent accuracy the shape of the Supreme Court under John Roberts. Nonetheless, in evaluating the universe of the threshold qualifications I have outlined, the entirety of the legal and judicial record regarding Judge Roberts points to a fair minded judge with deep respect for the rule of law, the independence of the courts, and the judicial method . . . a judge committed to stability in the law, and to the established judicial principles for reviewing and upholding precedent.

There is little doubt that Judge John Roberts will have the opportunity to author a legacy for America that will reverberate for the ages. After intensive examination, it is my conclusion that the totality of the record before us, has earned him the privilege of writing that legacy as the next Chief Justice of the United States. Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, the Constitution gives us a solemn duty when it comes to the confirmation of an individual to sit on the U.S. Supreme Court. While the President is to nominate that individual, it is our duty in the Senate to decide whether to provide our consent.

When it comes to whether Judge John Roberts should be the 17th Chief Justice of the United States, I have little trouble providing mine. Judge Roberts is one of the most accomplished legal minds of his generation. He has argued 39 separate cases before the U.S. Supreme Court, and he served with great distinction for 2 years on the Court of Appeals for the District of Columbia. He is certainly an eloquent spokesman for the rule of law, and he has received a ''unanimously well qualified'' rating from the American Bar Association, a rating that specifically addresses his openmindedness and freedom from bias and commitment to equal justice under the law.

I will vote to confirm Judge Roberts. I encourage my colleagues to do the same.

I think it might be helpful for us to consider this afternoon what we have learned about Judge Roberts over the past several months.

First, we have learned something about his judicial philosophy. Judges should not make policy. They don't pass laws or implement regulations. Instead, in the words of Justice Byron White, judges simply decide cases, nothing more. Judge Roberts embodies this philosophy.

During our hearing in the Judiciary Committee, he told us:

> The role of the judge is limited. A judge is to decide the cases before them. They are not to legislate. They are not to execute the laws.

Time and again he repeated his belief that judges should play a limited and modest role. During the confirmation hearings, he said this to Senator HATCH, Senator GRASSLEY, Senator GRAHAM, Senator CORNYN, and Senator KOHL. He told Senator KYL:

> Judges and Justices do not have a side in these disputes. Rather, they need to be on the side of the Constitution.

Judge Roberts explained his philosophy clearly and, yes, in plain English without using fancy words or resorting to long dissertations. By the end of last week, there was little doubt where Judge Roberts stood.

He believes that judges play a limited and modest role and, to use his own words, ''judges and Justices are servants of the law, not the other way around.''

Second, over the past several months, we have learned that the American people share our view that Judge Roberts will be fair, openminded, and modest as Chief Justice. We need to look no further than the editorial pages of America's papers to know that Judge Roberts has broad support.

The Los Angeles Times put it bluntly:

> It will be a damning indictment of petty partisanship in Washington if an overwhelming majority of the Senate does not vote to confirm John G. Roberts, Jr., to be the next Chief Justice of the United States. As last week's confirmation hearings made clear, Roberts is an exceptionally well-qualified nominee, well within the mainstream of American legal thought, who deserves broad bipartisan support. If a majority of Democrats in the Senate vote against Roberts, they will reveal themselves as nothing more than self-defeating obstructionists.

The Washington Post has offered a similar sentiment:

> John G. Roberts, Jr., should be confirmed as Chief Justice of the United States. He is overwhelmingly well qualified, possesses an

unusually keen legal mind and practices collegiality of the type an effective Chief Justice must have. He shows every sign of commitment to restraint and impartiality. Nominees of comparable quality have, after rigorous hearings, been confirmed nearly unanimously. We hope Judge Roberts will similarly be approved by a large bipartisan vote.

Papers from my home State of Ohio have also given Judge Roberts their approval. The Akron Beacon Journal, a paper that endorsed Al Gore in 2000, and then John Kerry in 2004, called Roberts ''supremely qualified.'' They went on to write:

Judge Roberts is eminently qualified. He has a sharp mind, a sound temperament, and a keen understanding of the collegiality required to run an effective Supreme Court.

According to the Cleveland Plain Dealer:

In selecting a leader for the U.S. courts, intellect and probity are far more important than predictable political philosophy. In the instance of John Roberts, it is difficult to find, even among his most committed opponents, anyone who will deny his intellectual superiority. His ethics are unimpeached. He is, by all measures, a fair mind. There is no reason to doubt that he will make an outstanding Chief Justice.

The Dayton Daily News described Judge Roberts in straightforward terms:

Ya gotta like the guy. Judge John Roberts' 3-day appearance before the Senate was impressive. Facing a Judiciary Committee full of people who obviously consider themselves expert on constitutional issues, he displayed mastery. He was familiar with just about any case the Senators could name. He discussed not only their main thrusts, but their nuances. His decency was as unmistakable as his brilliance and diligence. He bears no ill will toward any group that Democrats in the Senate are concerned about—minorities, women, working people, handicapped people, the poor.

These sentiments in these papers are certainly echoed by many of my constituents. For instance, Eric Brandt from Pataskala, OH, wrote in strong support of Judge Roberts:

The citizens of this State and country deserve a fairminded jurist who does not use the power of the bench to usurp the elected voice of the people.

Robert Hensley from College Corner, OH, made a similar point:

I believe it is imperative we have judges who rule according to our Constitution and not their own beliefs and ideas. I believe John Roberts is such a man.

And Al Law from Perrysburg, OH, had this to say:

We need prudent jurists who understand the proper role of the court, and [Judge Roberts] is such a man.

Clearly, these citizens saw what we saw during the hearings last week. Judge John Roberts is a modest, decent, and fair man who actually fully understands the limited role that judges should play in our constitutional system of government.

Finally, over the past few months, we have heard from those individuals who really know John Roberts the best. His colleagues in the bar, Democrats and Republicans alike, have overwhelmingly supported Judge Roberts' elevation to the Supreme Court.

As I mentioned earlier, the American Bar Association has given Judge Roberts a rating of ''unanimously well qualified,'' its highest possible rating. As Steve Tober, the chairman of the ABA Standing Committee on the Federal Judiciary, explained, Judge Roberts has ''the admiration and respect of his colleagues on and off the bench. And, he is, as we have found, the very definition of collegial.''

We have also heard from Judge Roberts' friends and coworkers and learned that they respect and admire him. Maureen Mahoney, former Deputy Solicitor General of the United States, said Judge Roberts ''is probably the finest lawyer of his generation.'' She described the assistance he provided her in her own career, and testified from her personal experience that he had an enduring commitment to providing equal opportunity to women in the workplace.

Another example, Professor Kathryn Webb, a lifelong Democrat who said that she does not support President Bush, nonetheless said that Judge Roberts has her ''full and enthusiastic support.''

Bruce Botelho, the mayor of Juneau, AK, a self-proclaimed liberal Democrat, offered his full support. The mayor worked closely with Judge Roberts on several cases and described him as ''the most remarkable and inspiring lawyer I have ever met.''

Finally, Catherine Stetson, a partner at Hogan & Hartson and a longtime colleague of Judge Roberts, offered her praise as well. She told us how Judge Roberts helped her transition back into the workplace after the birth of her first child. According to Stetson, Judge Roberts supported her in both of her roles as lawyer and as mother, ''and he did it quietly and without fanfare.'' She explained how Judge Roberts was instrumental in helping her become a partner at Hogan & Hartson, despite the unfounded concerns of others that her obligations as a new mother might interfere somehow with her ability to do the job.

All of these individuals have something in common. What they have in common is they know Judge Roberts personally. They have seen him handle cases. They have seen him deal with clients. They know him as an individual. They know him as a human being. They have worked with him. Each one of them supports his nomination to be the next Chief Justice of the U.S. Supreme Court.

It is true that we have heard comments and some testimony from well-intended individuals who oppose Judge Roberts, but I must say these individuals do not know Judge Roberts the way Maureen Mahoney does, they did not work with him the way Mayor Botelho has, and they have not dealt with Judge Roberts on a day-to-day basis the way Catherine Stetson has.

To be sure, over the past several months we have learned a great deal about who John Roberts is. We know about his extraordinary professional accomplishments. We have seen the overwhelming bipartisan support that he has earned from his colleagues in the legal profession. We have heard from John Roberts himself in a very eloquent defense of the rule of law. For all of these reasons, I will vote to confirm Judge John Roberts as the 17th Chief Justice of the U.S. Supreme Court, and I certainly urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Utah.

Mr. HATCH. Mr. President, last week the Judiciary Committee gave its solid, bipartisan recommendation that the Senate confirm John G. Roberts, Jr., to be Chief Justice of the U.S. Supreme Court. The Senate should follow that recommendation with a substantial bipartisan vote supporting this exceptional nominee. As the Los Angeles Times put it when endorsing Judge Roberts, anything short of an overwhelming vote would be an indictment of petty partisanship.

I think Judge Roberts is the most analyzed and evaluated Supreme Court nominee in history. The American Bar Association, whose rating my Democratic colleagues once hailed as the gold standard for evaluating judicial nominees, completed two exhaustive reviews. Each time the ABA unanimously gave Judge Roberts its highest well-qualified rating.

The ABA, by the way, includes in its criterion of judicial temperament such important qualities as compassion, openmindedness, freedom from bias, and commitment to equal justice under law.

Judge Roberts spent almost 20 hours before the Judiciary Committee while Senators asked him 673 questions. Senators then asked him 243 more questions in writing. Judge Roberts provided nearly 3,000 pages to the Judiciary Committee, including his published articles, congressional testimony, transcripts from interviews, speeches, and panel discussions and material related to the dozens of cases that he argued before the U.S. Supreme Court.

The Judiciary Committee obtained more than 14,000 pages of material in the public domain, including the opinions Judge Roberts authored and joined while on the U.S. Court of Appeals and legal briefs from his years at the law firm of Hogan & Hartson and as Deputy Solicitor General in the first Bush administration.

As if all of that were not enough, the Judiciary Committee obtained a staggering 82,943 pages of additional material from the National Archives and both the Reagan and Bush Libraries regarding Judge Roberts' service in those administrations. Total that up, and we have more than 100,000 pages of material on a 50-year-old nominee. That amounts to about 2,000 pages for every year of his life.

By orders of magnitude, this is more information than any Senators have had about any previous Supreme Court nominee.

The real debate over this nomination is about the standard we should apply to this mountain of information. The standard a Senator applies reflects a particular job description, what a Senator believes judges should do in our system of government. For some Senators, it is a political job description. They see judges as playing a political role, delivering results favoring certain political interests, setting or changing policy, creating new rights, defending social progress, and blazing a trail toward justice and equality.

Not surprisingly, Senators who believe in this kind of political job description ask political questions and apply political standards during the hiring process.

During the hearing, for example, the distinguished assistant minority leader, a member of the Judiciary Committee, told Judge Roberts he needed to know the nominee's personal values. Personal values are a condition for judicial service only if judges make their decisions based on their personal values. This is a political standard.

The Senator from Massachusetts, Mr. KENNEDY, a former Judiciary Committee chairman, has repeatedly said that the central question is, in his words, Whose side will Judge Roberts be on when different kinds of cases come before him?

Demanding that judges take sides before cases even begin is, again, a political standard.

Last week on the Senate floor, the Senator from Massachusetts, Mr. KERRY, said he could not support Judge Roberts because, as he put it:

> I can't say with confidence that I know on a sufficient number of critical constitutional issues how he would rule.

Basing support for a judicial nominee on a checklist of results, without regard for the facts or the law in each case, is a political standard.

The Senator from California, Mrs. BOXER, last week announced her opposition to Judge Roberts and described her standard by asking: Who will be the winners if we confirm Judge Roberts?

This question, of course, completely contradicts the age-old teaching of parents in California, my home State of Utah, and everywhere else that it does not matter if one wins or loses but how they play the game.

Focusing on the political correctness of a judge's results rather than the judicial correctness of his reasoning is a political standard.

Other Senators, and I place myself squarely in this camp, use a judicial standard. We see judges as playing a judicial rather than a political role.

During his hearing, Judge Roberts properly compared judges to umpires who apply rules they did not make and cannot change to a contest before them.

Can anyone imagine conditioning an umpire's employment on knowing before he officiates his first game which teams on the roster will win or lose?

Similarly, judges must not take sides before a case begins.

Senators who believe in a judicial job description ask judicial questions and apply judicial standards during the hiring process, and during the hearing process as well, I might add.

I want to know, for example, whether Judge Roberts believes he can make law at all, not the particular law he would make. I want to know whether parties will win before him because the law favors their side, not because he does.

Like America's Founders, I believe it makes all the difference for our liberty whether judges occupy a judicial or a political role in our system of government.

In the Federalist No. 78, Alexander Hamilton wrote, quoting the political philosopher, Montesquieu, that there is no liberty at all if judicial power is not separated from legislative and executive power.

The separation of powers is literally the lynchpin of liberty. That principle had a 200-year-old pedigree when America's Founders listed as a reason for seeking independence that King George had made judges dependent upon his political will.

We must insist on appointing judges who meet a judicial rather than a political standard.

I will list some of the evidence that Judge Roberts meets this judicial standard.

Judge Roberts told the Judiciary Committee that a judge is obligated to respect precedent, and he described in some detail the principles guiding how judges utilize those prior decisions.

If my friends on the other side oppose this nomination, do they believe that judges should not respect precedent? Do they reject the traditional principles of stare decisis that Judge Roberts outlined? If so, my friends should try to make that case to the American people. If not, if they agree with Judge Roberts that judges should respect precedent, then they should vote to confirm this nomination.

Judge Roberts repeatedly insisted that judges must be impartial. Here is how he put it:

> I think people on both sides need to know that if they go to the Supreme Court that they're going to be on a level playing field, the judge is going to interpret the law, that the judge is going to apply the Constitution and not take sides in their dispute.

That was said by Judge John G. Roberts, Jr., on September 13, 2005.

If my friends on the other side oppose this nomination, are they saying that judges should instead be partial, that judges should actually take sides, that people coming before the Court do not deserve the confidence that judges will be fair? If that is what they believe, I invite them to try to make that case to the American people. If not, if they agree with Judge Roberts that judges should be impartial, then they should confirm his nomination.

Judge Roberts said that judges must be open to the views of their judicial colleagues. This is a mark of modesty and humility he consistently said should characterize judges. If my friends on the other side of this nomination oppose this nomination, are they arguing that judges should not consider anyone else's views but narrowly insist that they are always right? If so, then once again they should make their case to the American people. If not, if they agree with Judge Roberts that modest judges remain open to consider what others have to say, then they should vote for his nomination.

Judge Roberts told us that judges are not politicians. If my friends on the other side oppose this nomination, do they really believe that judges, and not elected legislators, should make the law and determine public policy? Do my friends really believe that there is no difference between what the Justices do across the street in the Supreme Court and what we do in this Chamber? If so, I wish them luck trying to make that case to the American people. If not, if they agree with America's Founders and with Judge Roberts that judges are not politicians, they should vote to confirm this nomination.

Judge Roberts says judges are the servants of the law. If my friends on the other side oppose this nomination, do they believe judges are instead the masters of the law? Do they believe the Constitution is whatever the Supreme Court says it is? If so, then I invite them to make that case to the American people. If not, if they agree with America's Founders that the Constitution governs the judicial as well as the legislative branch, if they agree with Judge Roberts that judges are as subject to the rule of law as the parties before them, then my friends should vote to confirm this nomination.

Judge Roberts pledged that, as he has done on the appeals court bench, he will approach every case with an open mind and consider each case on its own merits.

If my friends on the other side oppose this nomination, do they believe instead judges should have a closed mind on issues that come before them, that judges should prejudge issues in cases even before they know the facts?

If so, then I urge my friends to try and convince the American people.

If not, if they agree with Judge Roberts that judges should safeguard their impartiality and keep an open mind, then they should vote to confirm this nomination.

Judge Roberts said:

> The role of the judge is limited, that judges are to decide the cases before them, they're not to legislate.

If my friends on the other side oppose this nomination, do they believe instead judges have an unlimited role,

that judges should decide cases not properly before them, and that judges should do the legislating?

If so, I urge them to try to make that case before the American people.

If not, if they share Judge Roberts' view about the proper limited judicial role, then they should vote to confirm this nomination.

Judge Roberts said judges must decide cases—and I am quoting him again—judges must decide cases:

according to the rule of law, not their own social preferences, not their policy views, not their personal preferences, but according to the rule of law.

Again, that was on September 13, 2005.

If my friends on the other side oppose this nomination, do they believe judges should decide cases based on their personal preferences or policy views rather than the rule of law?

If so, again, they should make this case to the American people.

If not, if they agree with Judge Roberts that the rule of law trumps a judge's personal views, then they should vote to confirm this nomination.

Judge Roberts said when Congress enacts a statute, we do not expect judges to substitute their judgment for ours but to implement our view of what we are accomplishing. If my friends on the other side oppose this nomination, are they instead saying judges should substitute their judgment for ours?

If so, again, they should make that case to the American people.

If not, if they agree with Judge Roberts that Congress's intent should prevail regarding Congress's own statutes, then they should vote to confirm this nomination.

Judge Roberts said:

I don't think the Court should be the task master of Congress. I think the Constitution is the Court's task master and it's Congress' task master as well.

That was said on September 14 of this year.

If my friends on the other side oppose this nomination, do they mean the Supreme Court should in fact be the taskmaster of Congress, and even of the Constitution itself?

If so, then I wish them well, trying to convince the American people by making that case to the American people.

If not, if they agree with Judge Roberts that the Constitution is the taskmaster of both Congress and the Supreme Court, then they should vote to confirm this nomination.

Judge Roberts told us the Bill of Rights does not change during times of war or crisis. If my friends on the other side oppose this nomination, are they arguing for setting aside the Bill of Rights in times of war or crisis?

If so, then they should make their case to the American people.

If not, if they agree with Judge Roberts that neither the Bill of Rights nor a judge's obligation to uphold the rule of law is suspended in a time of war or crisis, then they should vote to uphold this nomination.

I want to quote Judge Roberts again because his particular words are very important. He said:

If the Constitution says that the little guy should win, the little guy is going to win in court before me. But if the Constitution says that the big guy should win, well, then, the big guy is going to win, because my obligation is to the Constitution.

He said that on September 15 of this year.

If my friends on the other side oppose this nomination, are they arguing that whoever the little guy might be must win, regardless of what the facts and regardless of what the law requires? Are they saying judges should disregard their oaths to do justice without respect to persons?

If so, I will be watching with great expectation as they try to make that case to the American people.

If not, if they agree with Judge Roberts that the law, not the judge, determines who wins, if they agree with Judge Roberts that the judge's obligation is to the Constitution and not to a particular side, then they should confirm this nomination.

These examples show the type of judge John Roberts is on the appeals court, the kind of Justice John Roberts will be on the Supreme Court. Judge Roberts knows the difference between politics and law. He knows as a judge he must settle legal disputes by interpreting and applying law and leave the politics to the politicians.

We have all the information we need about this exceptional nominee. If we apply a judicial rather than a political standard, the Senate will confirm him as the Nation's 17th Justice overwhelmingly and without delay.

Judge Roberts is one of the finest nominees ever to come before the Congress of the United States, and in particular the Senate confirming body. Not only was he an excellent student, graduating from Harvard in only 3 years as an undergraduate, but he became the top graduate in law school and the editor in chief of the Harvard Law Review, a position everybody in this Chamber has to respect and admire.

He also served as a clerk for Judge Friendly, one of the greatest circuit court judges this country has ever seen. He served as a clerk for Chief Justice Rehnquist.

I was impressed at the Rehnquist funeral to see some 95 former clerks paying respect to their Justice Rehnquist, some of whom were my fellow Utahns.

He then worked in the White House counsel's office as a young man and served with distinction there. He then went on to become Deputy Solicitor General of the United States and did a terrific job while there. He rose to become one of the top partners in one of the top law firms in this country and argued 39 cases before the U.S. Supreme Court. Hardly anybody can make that claim today.

I have asked various Justices on the Supreme Court who they consider to be the best appellate lawyer to appear before them, and invariably the name John Roberts comes up from the Justices themselves.

I was intrigued that Justice Stevens is overjoyed that John Roberts is going to join them on the Court because he has such respect for John Roberts.

I have to say in 20 hours of testimony, how could anybody vote against him? I have to say also it concerns me that there will be some who will. I suggest if they would vote against Judge Roberts for the Supreme Court, then I doubt sincerely there is any nominee this President could put forth they would vote for, and that is a sorry case and I think a sad indictment.

I urge everybody in this body to vote for this outstanding nominee for Chief Justice of the United States. In doing so, I don't think anybody who does is going to be sorry afterward. Yes, I believe him to be conservative. Yes, I believe he is not going to be an activist on the bench. Yes, I believe he will honor and sustain the law—and I know one thing: he is going to approach the law as intelligently as any person who has ever been nominated to the Supreme Court. I think people who watched those hearings have to come to the same conclusion. If they do, then I hope our colleagues who have announced they are going to vote against him will change their mind, do what is right, and vote for him.

Remember, when now Justices Ginsburg and Breyer came before this body, I was the leader on the Judiciary Committee. I have to say, we Republicans all knew both of those now Justices were social liberals, that they disagreed with many of the things we believed and we disagreed with many of the things they believed. But they were both qualified and they were put forth by the then President of the United States, President William Jefferson Clinton. And Presidents deserve respect on these nominations.

Justice Ginsburg was confirmed on a vote of 96 to 3, and I believe Justice Breyer was confirmed on a vote of 87 to 9, which means virtually every Republican voted for both of them. We did not take the political way. I have to say I don't think others should take it here in this case with this person who everybody acknowledges is exceptionally well qualified, including the American Bar Association.

I recommend everybody vote for Judge Roberts, and in the end you are going to be able to go to sleep at night knowing you did the right thing.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I come to the Chamber today to discuss the nomination of Judge John G. Roberts to be Chief Justice of the United States.

Last week, the Senate Judiciary Committee approved the nomination of Judge Roberts to be the next Chief Justice of the United States by a 13-to-5 margin. This came after weeks of exhaustive research by the Judiciary Committee and a thorough set of hearings.

While I wish the White House would have been more cooperative during the process by releasing a more comprehensive set of documents relating to Judge Roberts' work in the executive branch, I do believe the committee hearings were conducted in a fair and dignified manner, and I do have some understanding of where Judge Roberts' judicial views fall within the political spectrum.

After careful review of Judge Roberts' testimony and the information prepared by the Judiciary Committee, I have come to the conclusion that Judge Roberts should be confirmed by the Senate to be Chief Justice of the U.S. Supreme Court. It is my intention to vote in favor of his confirmation when his nomination comes for a full vote before the Senate later this week.

There are few decisions of greater consequence that I will ever be asked to make than whether to approve an individual for a lifetime appointment as Chief Justice of our Nation's highest Court. While there is no absolute certainty how Judge Roberts will conduct himself as Chief Justice when he is confirmed, it is my belief that he appears to be a thoughtful and respected jurist who possesses integrity and great legal skills. I see no reason to believe that the nominee is an ideologue or otherwise outside the broad mainstream of contemporary conservative legal thinking. In addition, it is important to note that with the confirmation of Judge Roberts to replace Chief Justice Rehnquist, the balance of the Court will be maintained.

It is the prerogative of the President to nominate whomever he sees fit to lifetime appointments to the Federal judiciary, so it should come as no surprise that President Bush has nominated a conservative jurist such as Judge Roberts for the Supreme Court. While I have voted against President Bush's nominees to the lower Federal courts on a modest number of instances, I have voted roughly 200 times to confirm judicial nominees who I believed were conservative Republicans of great legal skill and who deserved bipartisan respect. With the nomination of Judge Roberts, I am once again prepared to support a qualified, conservative judicial nominee. However, with this vote I also send a message to President Bush that I hope his nominee to fill the vacancy of retiring Associate Justice Sandra Day O'Connor will as well be a person of great legal skill and who has the ability to garner strong bipartisan support.

In my home State of South Dakota, we have seen difficult and polarizing political battles over the past few years. I believe South Dakotans as well as all Americans desire a bipartisan centrist approach to government. Our Nation is governed best when it is governed from the broad bipartisan mainstream but not by the extremes of the political far left or far right. I encourage President Bush to nominate someone for Justice O'Connor's seat who will further unite the citizens of our great Nation rather than drive a political wedge between them. The proper legal foundation for America is found in the broad mainstream of contemporary jurisprudence. It is my hope that Judge Roberts will unite Americans and serve the Supreme Court in a fair and prudent and centrist manner.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR NO. 1

Mr. BENNETT. Mr. President, on behalf of the leader, I ask unanimous consent that at 5:30 today the Senate proceed to executive session to consider the following treaty on today's Executive Calendar: No. 1. I further ask unanimous consent that the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, that any committee conditions, declarations, or reservations be agreed to as applicable, that any statements be printed in the RECORD, and that at 5:30 today the Senate vote on the resolution of ratification; further that when the resolution of ratification is voted upon, the motion to reconsider be laid upon the table, and the President be notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROTOCOL OF AMENDMENT TO THE INTERNATIONAL CONVENTION ON SIMPLIFICATION AND HARMONIZATION OF CUSTOMS PROCEDURES—TREATY DOCUMENT 108–6

The PRESIDING OFFICER. Under the previous order, the clerk will report the treaty.

The legislative clerk read as follows:

Resolution of advice and consent to ratification to accompany Treaty Document 108–6, Protocol of Amendment to the International Convention on Simplification and Harmonization of Customs Procedures.

Mr. BURNS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the ratification of the treaty?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Louisiana (Mr. VITTER), the Senator from Florida (Mr. MARTINEZ), the Senator from Texas (Mr. CORNYN), the Senator from Kansas (Mr. BROWNBACK), the Senator from North Carolina (Mr. BURR), the Senator from Nebraska (Mr. HAGEL), and the Senator from Texas (Mrs. HUTCHISON).

Further, if present and voting, the Senator from Louisiana (Mr. VITTER), the Senator from Florida (Mr. MARTINEZ), and the Senator from Texas (Mr. CORNYN) would have voted ''yea.''

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from Iowa (Mr. HARKIN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Florida (Mr. NELSON), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

The PRESIDING OFFICER (Mr. THUNE). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 87, nays 0, as follows:

[Rollcall Vote No. 244 Ex.]

YEAS—87

Akaka	Dole	McCain
Alexander	Domenici	McConnell
Allard	Dorgan	Mikulski
Allen	Durbin	Murkowski
Baucus	Ensign	Murray
Bayh	Enzi	Nelson (NE)
Bennett	Feingold	Obama
Bingaman	Feinstein	Pryor
Bond	Frist	Reed
Boxer	Graham	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hatch	Salazar
Cantwell	Inhofe	Santorum
Carper	Inouye	Sarbanes
Chafee	Isakson	Schumer
Chambliss	Jeffords	Sessions
Clinton	Johnson	Shelby
Coburn	Kennedy	Smith
Cochran	Kerry	Snowe
Coleman	Kohl	Specter
Collins	Kyl	Stevens
Conrad	Lautenberg	Sununu
Craig	Leahy	Talent
Crapo	Levin	Thomas
Dayton	Lieberman	Thune
DeMint	Lincoln	Voinovich
DeWine	Lott	Warner
Dodd	Lugar	Wyden

NOT VOTING—13

Biden	Hagel	Nelson (FL)
Brownback	Harkin	Stabenow
Burr	Hutchison	Vitter
Cornyn	Landrieu	
Corzine	Martinez	

The PRESIDING OFFICER (Mr. THUNE). On this vote, the yeas are 87,

the nays are 0. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The Resolution of Advice and Consent to Accession is as follows:

Resolved (two-thirds of the Senators present concurring therein), The Senate advises and consents to the accession to the Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures (the ''Protocol'') done at Brussels on June 26, 1999 (Treaty Doc. 108–6), including Specific Annexes A, B, C, D, E, and G; Chapters 1, 2 and 3 of Specific Annex F; and Chapters 3, 4 and 5 of Specific Annex J; subject to the reservations to certain Recommended Practices (as set forth in the enclosure to the report of the Secretary of State in Treaty Doc. 108–6) in Specific Annex A, Chapters 1 and 2; Specific Annex B, Chapters 2 and 3; Specific Annex D, Chapters 1 and 2; Specific Annex E, Chapters 1 and 2; Specific Annex B, Chapters 2 and 3; Specific Annex D, Chapters 1 and 2; Specific Annex E. Chapters 1 and 2; Specific Annex F, Chapters 1, 2 and 3; Specific Annex G, Chapter 1; and Specific Annex J, Chapter 4.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid on the table, and the President will be notified of the Senate's action.

The majority leader.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

EMERGENCY HEALTH CARE RELIEF ACT

Mr. BAUCUS. Mr. President, I would like to speak a few moments about the need for health care assistance to Katrina-related victims. When I finish, I am then going to join with Senator GRASSLEY, the chairman of the Finance Committee, in a unanimous consent request, and that is bring up and pass the bill.

Tina Eagerton fled Louisiana for Clearwater, FL, to escape Hurricane Katrina. As Tampa Bay's 10 News reported, Tina is 7 months pregnant. She has a high-risk pregnancy. Plainly she needs a doctor's care, but Tina could not find a Florida doctor who would accept her Louisiana Medicaid card. She said, ''I've called some doctors, [but they say] 'We don't know what to do.' I guess nobody has gotten the memo.''

Congress needs to get the memo. We need to pass S. 1716, the Emergency Health Care Relief Act, and we need to do it today.

The last 4 weeks, we have seen terrible destruction, destruction that Katrina wrought as well as Rita has wrought; more than 1,000 people are dead, a million people displaced, hundreds of billions of dollars of damage. I went down there to the gulf to see it myself, and I must say it is worse than the pictures.

Katrina has exposed deep problems that plague American society: chronic poverty, stark inequality, strained race relations. We could not solve all of these problems today, but some are so pervasive, so severe, that a single bill cannot remedy them. It requires a sustained national debate and reexamination of what we as a nation hold dear.

We cannot fix everything today, but we can fix some things today. One thing we can fix is a lack of health coverage for tens of thousands of Katrina survivors. We can and must pass the Emergency Health Care Relief Act today.

This broadly supported legislation would provide victims of Hurricane Katrina with the health care services they urgently need. As we so often do, Chairman GRASSLEY and I worked together on this bill. We worked together on the Katrina tax package which the President signed Friday and which is even now putting cash in the hands of Katrina victims.

And we worked together on this health bill as well. We spent a lot of time together—our staffers—consulting with Senators, especially with Senators in related States.

Our health bill would provide temporary Medicaid coverage for Katrina survivors, available through a streamlined application. It is that simple. These benefits would be available right away. Those eligible would get coverage for up to 5 months, with a possible extension of 5 months.

Pregnant women such as Tina Eagerton, as well as children, would be eligible for health care at higher income levels.

To support those who lost their jobs and income, our bill allows those individuals to keep their current coverage with assistance from the Federal Government. And our bill would set up a fund to help health care providers deal with their tremendous uncompensated care losses—health care, hospitals, specialists. These funds would go to providers who experienced a surge in patient load from the evacuation of Katrina victims. These funds would go to those facilities that no longer have the patient base to make ends meet.

But this is not just health care providers who are incurring uncompensated care expenses. States are as well. Texas has taken in 200,000 Katrina evacuees. Katrina is adding $30 million a month in costs to the Texas Medicaid Program.

Our legislation provides Texas—and other States caring for Katrina evacuees—with the full Federal Medicaid funding for those evacuees.

The bill would also cover all the costs of Louisiana's and Mississippi's Medicaid and child health programs for 2006, with the same treatment being provided to a number of particularly ravaged counties in Alabama.

This legislation would give solid help to those who receive TANF and unemployment insurance.

In short, our bill does a great deal to help Katrina victims in commonsense ways.

As a result, our bill has broad support from consumer, health care, and business groups. Here is what some of the groups have to say about our bill.

The American Red Cross says:

> As our nation faces the challenging task of ensuring that the victims of Hurricane Katrina receive the care, compassion, and support needed to reconstruct their lives, legislation such as yours helps to ensure their health care needs will be met.

The American Hospital Association says of our bill:

> [It] is an important first step toward getting assistance to the thousands of people who have been affected by the storm, as well as those who are providing their care.

The National Governors Association says:

> The Nation's Governors are very supportive of your relief package. [The] additional investments in Medicaid and TANF that your relief package provide will be critical to help these individuals put their lives back together and regain some sense of stability.

Congress has taken some steps to respond to the Katrina disaster. We have passed more than $60 billion in funding for FEMA. We have passed Katrina-targeted tax relief. These bills are helping us in what may be the biggest relief operation for a natural disaster in American history.

But we also must do more to help the victims of this natural—and national—disaster. We must provide Katrina victims with access to health care—not done in part of the legislation—and we must do it now.

Americans have responded generously. Americans have given of their time, through the efforts of tens of thousands of volunteers.

Americans have opened their homes. Web sites report offers for shelter totaling nearly 270,000 beds. And Americans have opened their wallets in an unprecedented fashion. In the 3 weeks following the hurricane, Americans contributed more than $1.2 billion to help victims.

But individual citizens can do only so much. At some point Congress needs to help. We need to help people such as Rosalind Breaux. Of Rosalind Breaux, the Chicago Tribune reported:

> Diagnosed with colon cancer on May 1, Ms. Breaux was scheduled for her third round of Chemotherapy on August 31, a day after flooding began to wreck New Orleans and Charity Hospital where she had been receiving care. Breaux and her family ended up settling temporarily in Baton Rouge. Nauseated with constant fatigue, profound weakness and frequent pain, Breaux has been trying to survive the stress of her situation as best she could. Meanwhile, her husband, a policeman at Charity Hospital, has lost his job and there are questions about whether his insurance will pay for her care. ''It's been so frustrating not knowing what's going to happen,'' she said. ''I just pray I can make it through this.''

We need to help. Congress needs to ensure that people such as Rosalind Breaux and Tina Eagerton have health care. That is the least we can do.

Let us rise to the level of caring and sympathy of the American people who have given so much to the victims of this disaster. Let us take action to meet the needs of those whom Katrina has displaced and disadvantaged, and let us do our part to help this region and its people get back on their feet.

We can do this today—this evening, now—by passing the Emergency Health Care Relief Act, legislation which the chairman of the committee, Senator GRASSLEY, and I have worked on so vigorously, so assiduously and comprehensively. Talking to Senators, talking to groups, we have worked on this, and it is a balanced bill, a needed bill. Time is of the essence.

I urge the Senate to act tonight.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am pleased to join my colleague, Senator BAUCUS, ranking Democrat of the committee that has jurisdiction over this issue of Medicaid, to urge passage of the Emergency Health Care Relief Act of 2005. He explained very well how we have worked out in a bipartisan way the contents of this legislation, not only between Senator BAUCUS and me but by involving the staff of everybody on the committee, as well as consulting, particularly, the Senators from Arkansas, Texas, Louisiana, Mississippi, and Alabama.

We are all very deeply moved by the pictures and by the stories of those from the States who have been hurt by Katrina—and now, of course, Rita—their homes, their jobs and, worst of all, their loved ones who have given up everything. My heart, of course, goes out, as well, to the others who have suffered as much as a result of this terrible disaster.

I think the need to act is very obvious. About 250,000 people have been evacuated as a result of this disaster.

According to a survey by the Washington Post, fully half of the evacuees have no health insurance. Four in ten of the evacuees are physically disabled or have chronic illness. According to a survey done by the same paper, 6 in 10 evacuees have incomes of less than $20,000.

It is a function of our Government and our responsibility as legislators to provide assistance to these vulnerable families.

I would like to briefly outline this legislation. The Katrina health care relief package is very targeted and, most importantly, temporary. It is both a targeted and temporary benefit for the neediest individuals and families.

It provides assistance with private health insurance premiums for people in businesses affected by hurricanes so they won't lose their coverage; an uncompensated care funding pool to cover evacuation costs and emergency health care costs related to the hurricane; most importantly, temporary Medicaid coverage limited to 5 months, unless the President would extend it for another 5 months, limited to only those residents and evacuees from the hardest hit counties of the State; and 100 percent Federal funding for the disaster-related Medicaid costs until December 31, 2006.

The compromise package bill limits Medicaid to those most in need: To those below the poverty level; pregnant women and children below 200 percent of poverty, which is current law in Texas already, as one example; and those eligible under the host State's Medicaid coverage under existing law.

It is very limited. The bottom line is that this is a responsible compromise. It is time limited. It is targeted only to those who have the most need.

The legislation includes a simplified enrollment procedure. One important part of our bill that I want to highlight would help those with private insurance pay premiums on their policy. Many of the folks affected by Katrina have private health insurance which they would like to keep.

Many of the evacuees also have chronic conditions. For these folks, losing health insurance can mean the loss of important provider relationships. This legislation will help these folks avoid that situation.

The legislation also offers help to certain employers who, prior to Katrina, offered their employees health insurance.

We all know that many businesses face a difficult time in maintaining coverage. Now these businesses will be able to get back up and contribute to a revitalization of the economy in that area.

Our bill would also waive the Medicaid Part B late enrollment penalty for those who miss the initial enrollment period. We don't want people to have opportunities to get into Part B enrollment only to have to pay a penalty when they wouldn't otherwise do that if we had not had the hurricane.

I am pleased that Senator BAUCUS and I have been able to take action on behalf of those whose lives have been disrupted by the hurricane.

As Senator BAUCUS said, the bill is supported by the Governors Association, the American Medical Association, the American Hospital Association, the Health Care Leadership Council, the American Red Cross, the March of Dimes, and many others.

I hope my colleagues will support this legislation, and I urge swift Senate consideration of S. 1716.

I would also like to point out some things more procedural than just the contents of the bill. As a reminder to all of my friends on this side of the aisle, the Wednesday after Labor Day we had a news conference assuring the people of this country—that news conference involved leadership, as well as those who are chairmen of the committee—promising appropriate as well as immediate relief for the States that are hurt. That hurting is extended beyond the States that were hit by the hurricane to States that have taken evacuees.

I also point out that it is quite obvious from television the hurt that people have. Also, we tried to pretty much do a total paralleling of what we did for New York City after 9/11. Along that line, I remind my colleagues of something that President Bush said as he was speaking in a news conference about the hurricane not discriminating. We were not going to discriminate.

It seems to me that doing for the people in this area hurt by this Katrina catastrophe ought to be done in the same way that we did to help people who were hurt by the New York City 9/11 catastrophe.

Then, as a practical matter—and I don't say this just because Senator LINCOLN is in the Chamber—I use her as an example of a lot of people who are trying to accomplish the goals that Senator BAUCUS and I want to accomplish, as she did on an appropriations bill by offering an amendment.

That amendment went much further than what we do in this legislation. She withdrew that amendment. But I think there are people who are going to want to push those issues if we don't move in this comprehensive, bipartisan way that Senator BAUCUS and I have done. I remind colleagues that we might end up actually adopting a proposal much more expensive than S. 1716, if Senator LINCOLN offers her amendment, than we do through this approach that we are taking here in the case of Senator BAUCUS and my working out this bipartisan agreement.

I urge that we move forward with this legislation for the reasons that I have given, as well as the substance being a responsible approach.

I would like to ask, if I could, unanimous consent that we move forward with this legislation. Then, if somebody wants to speak afterwards, speak afterwards on the subject.

Mr. President, I ask unanimous consent that we move immediately to the consideration of S. 1716.

The PRESIDING OFFICER. Is there objection?

Mr. ENSIGN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I appreciate the efforts that the chairman of the Finance Committee and the ranking member have made on this legislation. They are working hard to help out the people who have been affected by Hurricane Katrina on the gulf coast. All of our hearts go out to the people in the gulf region. The devastation that region has experienced simply cannot be put into words. The issue we are considering tonight is not what kind of assistance should be provided to evacuees but how that assistance should be provided and whether this should be done by unanimous consent.

The administration has taken administrative steps to provide necessary medical care to evacuees. They have provided Medicaid waivers to certain states. Secretary Leavitt has pledged additional waivers to states that request one if the request is reasonable. For its part, Congress has already approved $62 billion for the recovery of victims and their care. I am concerned that this bill involves new spending rather than reprogramming a part of the $62 billion Congress has already appropriated. This bill would add an additional $8.9 billion in spending on top of the money FEMA has already been given.

We should make some changes to this bill. I have serious concerns about four provisions included in this bill. First, this bill provides for temporary expansion of Medicaid. Second, it requires that the federal government provide 100% FMAP for Louisiana, Mississippi and affected counties in Alabama. This is a dangerous precedent and removes any incentive for these states to keep Medicaid costs down. Third, it holds 29 states harmless from a scheduled FMAP reduction in 2006. This means the federal government continues to pay more of the costs, even in states with few or no Hurricane Katrina evacuees. My final concern is that this bill also increases spending by $8.9 billion and probably unnecessarily so given the steps that Congress and the Administration have already taken.

Any legislative proposal should be well thought out and fiscally responsible. If these services can be provided administratively, which HHS says they can, we should allow HHS to do so. Congress does not, and should not, alter the Medicaid formula as this bill seeks to.

We, as a Congress, need to get a better handle on the money being spent. We have an obligation to those affected by the hurricane as well as to those Americans we are asking to help pay the costs of relief. We must ensure this money is spent wisely.

I object to the unanimous consent.

The PRESIDING OFFICER. The objection is heard.

Mr. BAUCUS. I am astounded by the statement made by the Senator who just spoke. This has nothing to do with the $62 billion, nothing whatever. If there are contract problems with FEMA dollars, we will discuss those and deal with them when this Senate deals with additional appropriations requests related to Katrina. This has nothing whatever to do with that. Those are FEMA dollars, contracts to repair roads and bridges.

Mr. ENSIGN. Will the Senator yield?

Mr. BAUCUS. Not at this moment, no.

It has nothing to do with FEMA. We will deal with legitimate points that the Senator from Nevada raised at another time and context when we deal with additional appropriations for FEMA. This has nothing to do with that.

We are talking about people. FEMA was projects, contracts. This is people. This is people's health care. This is Medicaid, that pays for people's health care. This is an emergency. It is people's health care—for people. That is what this is.

It has nothing to do with FEMA, nothing whatever.

I hope the Senators understand that. I hope the country understands and realizes that. I am astounded at the objection I just heard because it has nothing to do with the objection at hand.

Mrs. LINCOLN. Will the Senator yield?

Mr. BAUCUS. I yield to the Senator from Arkansas.

Mrs. LINCOLN. If the Senator from Nevada is worried about the dollars FEMA received, why did no one object to that? Why did no one object to the $60 billion being sent to FEMA, which has been so inefficient in the wake of this disaster?

Now we are going to ask, as the chairman of the Committee on Finance points out, the disproportionately low-income, disproportionately disabled individuals to pay for this?

I am here today to speak in support of the Emergency Care Relief Act of 2005 and to compliment the chairman of the Committee on Finance and the ranking member, Senator BAUCUS, for making this important issue a priority, for working hard and bringing people together to recognize it is not only a natural disaster but a national disaster. We as Americans have to come together to help our neighbors.

I find it odd that here we are talking about $8 billion, $7.5 billion, $8 billion compared to the $60 billion no-bid contracts. Maybe my colleagues who want to object to this are willing to jump in and help provide the bipartisan-nonpartisan commission we need to review the response to the natural disasters that happened on the gulf coast. Maybe they want to join in saying we need somebody who can review what is going on—not just what happened then but what continues to happen in FEMA.

Our Nation's health care providers and States have been there at a time when vulnerable Americans needed them the most. The moment Hurricane Katrina hit the gulf coast, they jumped into action without being asked. No one asked them to get in their cars and drive to the gulf coast to provide medical care, to get in their helicopters and go rescue those people off those rooftops. States all across the country opened their doors to welcome Katrina survivors. Hospitals sent helicopters to the gulf coast to evacuate those who needed immediate attention. Doctors, nurses, and other health care providers have come together to provide much needed health care to thousands of Katrina survivors. And they did it all with no questions asked. They exemplify what it means to be a good neighbor and what it means to be a part of this American family.

Our own Arkansas Children's Hospital is one of the many hospitals around the country that immediately jumped into action to provide health care for Katrina survivors. Even before the worst of the storm hit, they were evacuating young patients to safety. One patient, in particular, was a 9-year old boy. Let me tell you, that hits home with me; I have twin boys who are 9 years old. This young man had a severe heart condition that required a complicated heart pump to be flown in from Germany. Arkansas Children's Hospital evacuated this child from Louisiana, and he received the necessary pump, saving this 9-year-old boy's life. Does that mean anything to anybody in this body? It meant something to his parents. And for once, we as a Senate should stand up and take notice.

Arkansas Children's Hospital did. And they have already provided $1.7 million in uncompensated care to Katrina survivors.

There are health care providers all around the country doing similarly inspiring work. In Arkansas, our pharmacists have been filling prescriptions as fast as they can, paying special attention to those who have chronic conditions or were in the middle of their cancer treatment. Senator BAUCUS mentioned one of those cancer patients.

Hospitals have deployed medical teams to approximately 60 camps and shelters around our great State to address the medical needs of these evacuees. I have always been proud of the people of Arkansas. I have always recognized them as our greatest asset. And I am enormously proud of the countless providers and volunteers in Arkansas and all around this great country who have given their time to make sure that the health care needs of Katrina survivors are met.

By passing the Emergency Health Care Relief Act, we in this Senate have the same opportunity to give Katrina survivors, health care providers and States, the relief they so desperately need.

We are not talking about walking away and closing the doors. We are talking about a temporary relief for people who jumped in there and provided care, without being asked, without being mandated, but because that is what human beings do when other human beings need that kind of care.

Medicaid is our Nation's health care safety net. That is what we are talking about, a safety net for some of the most vulnerable of Americans who have been hit by an unbelievable natural disaster. This crisis has shown just how important this safety net is to our Nation. We need to make sure it does not unravel in the face of this national emergency.

Our home State of Arkansas, per capita, has taken in unbelievably disproportionate numbers of evacuees—not because we had to, but we believe that is what it means to be a part of the American family.

This place is paralyzed because too few are willing to recognize how important it is to not only reach out to our neighbors but to also follow up and back up those who have been there in these emergencies, to provide the health care needed.

I said earlier that it hit home for me. While I was on vacation this summer, one of my 9-year-old sons did get sick. I was in a strange State, in a strange town, never been there before. I found a clinic, and I went. I was so grateful. I felt so blessed to have Federal employee health insurance, to be able to access health care for my child while on vacation. Think about the mothers, the fathers, the families, the elderly who find themselves in a strange place—in a church, a makeshift camp out of a church or maybe in a church basement or maybe in some evacuated housing that has been made a makeshift place for the evacuees to stay. What happens to them when they go to get health care? What happens to that provider who has to look them in the eye and say, I don't know where you are going to get health care. That is not what we are about in this country.

We talked about billions of dollars we have directed to FEMA. We have talked about tax cuts we provided to low-income people who may or may not even know if they can access those tax cuts. But here we are talking about the elemental part of being a good neighbor, a fellow human being, looking to make sure the essentials of providing health care to our brothers and sisters in this country, and we are going to sit here and twiddle our thumbs over redtape? We are going to talk about the possibility of waivers that would cause us to have to petition the devastated States to pay back or to look at these waivers that do not have the funding so we give them a false sense of security so they can provide these services and then find they do not get reimbursed after all?

What is our Federal Government for if it is not to provide a safety net at a time such as this, to give peace of mind to the hard-working men and women who provide health care day in and day out? I have been to these evacuee camps. I have watched the redtape. I have watched the Red Cross volunteers argue with the volunteering physicians and health care providers on whether they can even give a tetanus shot to somebody who had to swim out of New Orleans.

We have an opportunity to stand up and be counted, to provide temporary peace of mind to the medical providers who are reaching out to provide the much needed services to the disproportionately low-income, disproportionately disadvantaged and handicapped.

I offered an amendment almost 3 weeks ago. As the chairman mentioned, it probably did go a little bit further than what is being talked about here. I am not ashamed of that. But I didn't give away the barn. It was still temporary just to make sure that these evacuees, these fellow Americans, could get the services they need at the most vulnerable time of their lives. I was asked in good faith to withdraw my amendment because nobody wanted to vote against it. Withdraw your amendment and we will work out a good bipartisan deal. Chairman GRASSLEY and Senator BAUCUS did just that.

I say to my colleagues who want to object to what we are trying to do, if you have a better answer or you want to say of that $60 billion that every one of us voted for to go to FEMA, maybe you are willing to look to FEMA and make sure that happens, $8 billion out of $60 billion is a small piece of the overall pie.

I withdrew that amendment in good faith. I hope my colleagues will recognize that we are talking about the American spirit that I hope we produce in the Senate.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, what is the regular order?

The PRESIDING OFFICER. We are in morning business with 10-minute grants.

Mr. SUNUNU. Mr. President, I will respond in part in supporting my colleagues who objected. We do not object in any way to providing assistance where it is needed. We have already done so, passing $62 billion in new spending, $9 billion in tax relief. That is a very great core relief effort that is providing assistance to those very much in need in the Gulf Coast States and around the country.

The question and the point we object to is whether we consider this bill tonight by unanimous consent, an additional $9 billion in spending, several new programs, some of which do not really have anything to do directly with providing emergency assistance for health care or any other services to those people who need it in the Gulf States. That is the question, whether it is imperative we consider this bill now or whether we can move forward in a more deliberative fashion, and whether some of the elements in this bill can be improved.

As I said, we provided $62 billion in appropriations, $9 billion in tax relief. So at the very beginning of this discussion we have to ask, with over $40 billion still unexpended and uncommitted, why can't we use a portion of that to cover some of these important needs, some of the health care needs the Senator from Arkansas just described? I think that is one basic reason why I and others object to moving forward tonight on this bill. We ought to be able to find a way to utilize some of the $62 billion we have already passed through the House and the Senate.

Second, as I indicated, there is a provision in this legislation that changes reimbursement rates for Medicaid for 29 States, regardless of whether and how many displaced people from the gulf are currently housed in that State, currently seeking services in that State, currently looking for health care or employment in that State. For 29 States whose reimbursement rate was going to change in 2006, we wave the wand and say: No change to reimbursement rates regardless of how you might have been impacted by Hurricane Katrina or Hurricane Rita. That has nothing to do directly with providing the assistance, the compassion, the care, the health care the previous speakers were describing.

I question whether this is an appropriate vehicle to include such a provision. There is $1.5 billion for disaster relief in Medicaid—well intended, well directed. But currently CMS, the regulator of Medicaid, is allowing States to apply for waivers to deliver the very kinds of benefits contemplated in that $1.5 billion program. In fact, Texas and Mississippi and Florida and Alabama have already applied for and have received waivers to do those very things contemplated in the legislation, which begs the question, is this necessary? And if it is necessary in some shape or form, do we need to commit $1.5 billion, or can we wait and at least better understand how the waiver process is proceeding, which has been approved already in those four States? And I hope other States that might apply will get a similar fast response.

There is also $800 million in this legislation to provide assistance, financial support to individuals who are covered by private insurance, though indirectly that will provide payment to private insurance companies whose participants were affected by the hurricanes. I would want, first, to answer the question: What are those private insurers doing for the employees they had covered? Are they walking away from those employees and those businesses because they were affected by this tremendous natural catastrophe? I hope that is not the case. I do not know that is the case. But we ought to understand what obligations, what commitments these private insurers are meeting before we commit an additional $800 million that might allow them to walk away from some of their economic or moral obligations for those they have covered in the past.

So $1.5 billion in a disaster relief program that is already being addressed through the waiver process, $800 million in support for those covered by private insurance, and changes to reimbursement rates for 29 States, regardless of how they were or might have been impacted by these hurricanes—I think all of those items call into question both the structure and the timing of this legislation. I think we can do better.

I think there are a lot of questions as to how the $62 billion that has already been committed is being spent. Other Members have raised the question of working harder to find offsets so any additional spending will have a minimum impact on the deficit and the national debt, which is a challenge and a

crisis we are all going to be faced with today and in future generations as well. We do not want to create a future economic catastrophe in our heartfelt efforts to deal with this natural disaster today.

There is no question that we need to provide assistance, that we should provide assistance, and that the House and Senate will continue to provide assistance, in all likelihood, in addition to the $62 billion we have already committed and the $9 billion in tax relief that has been added to that. But we need to work very hard to make sure we know how that money is being utilized. I think we should do everything in our power to allow some of those funds to be used for these critical health care costs. And we need to do much more to try to find ways to cover this additional spending so we do not increase the deficit and leave an unfortunate financial legacy for future generations.

I think my colleague's objection was warranted. I do not think being more deliberative in addressing this legislation and reviewing this legislation will hurt its efficacy and effectiveness in the long run. But I do think it will serve the public and the country much better in the long run to be as fiscally responsible as we possibly can in addressing these critical needs in the Gulf States.

I yield back the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAMBLISS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OIL PRICES

Mr. DORGAN. Mr. President, I introduced a piece of legislation a few weeks ago with my colleagues, Senator DODD and Senator BOXER, dealing with the issue of a windfall profits tax on the major integrated oil companies in this country. The proceeds of this profits tax would be used to give rebates back to consumers who are now paying extraordinary prices to fill up the tank of their car and will be paying extraordinary prices this winter for things such as natural gas and home heating fuel.

Well, this proposal for a windfall profits tax in order to capture some of that windfall or excess profits and move it back to consumers has drawn a fair amount of criticism from, of course, one of the largest and wealthiest industries in our country. I expect that and understand that.

An op-ed piece this past weekend by James Glassman is typical of that. James Glassman is a fellow at the American Enterprise Institute, and he wrote an article that said:

Look, the free market is working. The markets are working, he says. He is very critical, of course, of the legislation I have introduced. ''The markets are working.''

Well, I decided I would bring this over. This is the James Glassman, by the way, who wrote the book in year 2000, ''Dow 36000.'' He was predicting the Dow Jones Industrial Average was going to go to 36,000. It did not quite work so well. But among the pundits here in Washington, DC, there is no such thing as trying to track back to find out who is right or wrong, you just keep writing. The Dow at 36,000? Yeah?

The oil markets are working? Sure they are.

Let me show you what is happening with these markets.

First, this was in the Washington Post yesterday. It shows there is a 46-percent increase in the price of a gallon of gasoline for the crude oil producer since last September.

That is for the producers. It shows a 255-percent increase for refiners over the past year. Incidentally, in most cases these are the same companies. Because of the behemoth mergers of the 1990s, giant oil companies were formed. Many of these are integrated companies that do everything from pulling oil from the ground to putting it in the car.

What has happened? Well, let me give you some statistics.

The 10 largest oil companies earned revenues last year of over $1 trillion and had net profits of over $100 billion. These are last year's numbers. Exxon Mobil, the world's largest publicly traded oil company, earned more than $25 billion last year and spent $9.9 billion of it to buy back its stock. In addition, it has kept $18.5 billion in cash. Profits for the largest 10 oil companies jumped more than 30 percent last year over the year before.

Now, there is an exception to this, because these profits are going to look minuscule as compared to the profits they are getting this year. The price of oil has gone up another $30 a barrel. It is $30 a barrel above the record profits the major oil companies had last year.

So while people drive to the gas pump and pay through the nose, this notion of ''fill 'er up'' no longer just pertains to the gas tank on the car, it pertains to the treasuries of the major oil companies. And are they being filled up.

Now, what is happening with all of that money? Well, let me read a BusinessWeek article that says: ''Why Isn't Big Oil Drilling More?'' Interesting. One would expect, as Mr. Glassman argues: Gosh, if the oil companies can just get rich, they'll look for more oil. Everybody wins. Right?

BusinessWeek: ''Why Isn't Big Oil Drilling More?''

Well, the answer in the article was:

. . . by cutting the number of rivals, mergers have made it easier for them to get away with that reluctance to spend.

Far from raising money to pursue opportunities, oil companies are paying down debt, buying back shares, and hoarding cash.

Rather than developing new fields, oil giants have preferred to buy rivals—''drilling for oil on Wall Street,'' as they call it.

So you have a massive amount of money that is going to the treasuries of the big oil companies. And they are ''drilling for oil on Wall Street.''

Well, I have news for them. There ain't no oil on Wall Street. The megamergers of the 1990s, the creation of these behemoth organizations now have us in a situation where they are getting extraordinarily wealthy with, in my judgment, windfall or excess profits.

The American consumer is paying through the nose, and these companies are profiting beyond that which we have ever seen in corporate America.

Now, the Federal Trade Commission head says she doubts new laws dealing with profiteering would be effective. It is not surprising to me. The Federal Trade Commission, as a result of a provision I put in the new energy bill that was signed by the President, is required by law to investigate the pricing of oil and gas. But do any of us think this tiger without teeth called the Federal Trade Commission is very interested in doing that? No.

And if you wonder, take a look at the writer's article of 22 September 2005. Before they have even taken a hard look at all these things, the chairman of the Federal Trade Commission is taking the typical probusiness line.

Let me say this: The proposal we have offered for a windfall or excess profits tax, and using it to provide a rebate to consumers, is one that makes a lot of sense. This is not the old windfall profits tax of a couple decades ago.

This says: If the excess profits that integrated oil companies are getting for selling a barrel of oil above $40 are being invested back into the ground to develop the nation's energy supply or invested to build refineries, then they will not bear the burden of this recapture. Our proposal is simple: There will be no recapture and no tax if this windfall profit is being used to explore for more oil or to increase refinery capacity.

But I read to you the BusinessWeek article describing what they are doing. What are they doing? They are using this extra money to buy back their shares of stock, to pay down their debt, to hoard cash—in Exxon's case, in excess of $15 billion. Of course, that is a ready reserve with which to take a look at new companies to buy. That is the reference to ''drilling for oil on Wall Street.''

Well, I suppose there are many in this Congress, perhaps in this Senate, who share Mr. Glassman's views. After all, he comes from the American Enterprise Institute. They hand out a lot of paper and kill a lot of trees to dispense information here in the Senate about the market system. But there is no free market in oil. What you have

with respect to oil are a few OPEC countries in the Middle East whose ministers sit around a big table and talk about production and price.

In addition to that, you now have behemoth oil companies that have the capability to exercise much more impact on market prices and supply. In addition to that, you have futures markets which are supposed to provide liquidity but which now are playgrounds for speculators. You have speculators. You have bigger oil companies. You have the OPEC countries. And we have free marketers talking about a free market? What are they smoking? There is no free market here.

What is happening is the American consumer is being taken advantage of. They are paying extraordinarily high prices for gasoline. While people go to the gas pump and put 15 gallons of gas in their tank, and pay $50 for it, and people this winter will have a 70-percent increase in natural gas prices for heating their home, we have some of the largest corporations in this country profiting in an unusual, unwarranted way.

I say simply this: If these oil companies are using those profits to find more oil, that is one thing. If they are not—and they are not; to wit, the article from BusinessWeek—then, in my judgment, some of that excess or windfall profit ought to be recaptured and sent back to consumers.

Let me say, my State produces oil. So I have some people in my State who are a little cranky about what I proposed. I do not aim to hurt the oil industry. If, in fact, there was a free market I would not be here. But it is also true that consumers in my State are bearing the pain.

Let me describe my consumers in North Dakota. We drive exactly twice as much per person as New Yorkers do. We use twice as much gasoline per person than the average New Yorker. Why is that the case? Well, in New York, if they are going to see an aunt or an uncle in New Jersey, it is a big trip. You pack an emergency kit. You go get your car serviced. You talk about it for several months and then drive 40 miles to see the relatives. That is a big deal out East.

Not in the Midwest, not in the northern Great Plains. Forty miles is nothing. People drive 200 miles one way for a meeting, and then drive 200 miles back in the same day. That is why in our part of the country, in a State such as North Dakota that is 10 times the size of the State of Massachusetts in land mass with 640,000 people spread out over that land mass—we drive twice as much as New Yorkers.

What does that mean? Well, when the price of gasoline doubles, it hurts us twice as much as it does those in States where they do not use gasoline as much as we do.

So I recognize the oil industry would like to keep all this going: $3, $3.50 a gallon. By the way, this all started before there was any hurricane. I saw on the news last night a sophisticated news report about all this, and it was linking the price of oil to the hurricanes. The fact is, the price of oil was up over $30 a barrel above last year's price—at which point you had record profits in the industry—long before Hurricane Katrina. So this is not about hurricanes.

The question is, will Congress care? Will Congress do something about it? We spend a lot of time on things that do not have much of an impact on the American people. I wonder if for a moment we can spend some time on something that does. There is a tendency around here to treat serious things way too lightly, and then to treat light things way too seriously. This is a serious issue. A whole lot of folks cannot afford to pay this. They cannot pay the cost of $3-a-gallon gasoline or have a 70-percent increase in natural gas prices or have a 40-percent increase in the price of home heating fuel to keep warm in the winter.

The question is, does Congress care? Does the Senate care? We will have people come here in blue suits saying: This is a free market. This is not a free market. Again, if this were a free market, I would not be on the floor talking about it. This is a market with clogged arteries, clogged in a manner that is horribly unfair to the average American, and clogged in a way that provides handsome profits, unparalleled profits, to the oil industry.

But let me say, once again, lest others misrepresent what we are proposing, if that industry is using these profits to find oil in the ground, or above ground on refineries to process oil, they would not be affected by a windfall profits tax. But if they are not—and they are not, in most cases—then they would bear the burden of a recapture of a portion of these windfall or excess profits, and they would be sent back to the consumers in this country, as a matter of basic fairness.

Mr. President, I yield the floor.

HONORING OUR ARMED FORCES

PRIVATE STAFF SERGEANT TRICIA LYNN JAMESON

Mr. NELSON of Nebraska. Madam President, I rise today to honor SSG Tricia Lynn Jameson of Omaha, NE.

SSG Tricia Lynn Jameson was a dedicated soldier serving in the National Guard for over 11 years. Originally born in Aurora, NE, she and her family moved to Omaha where Jameson became a 1989 graduate of Millard South High School. Jameson began her military career on July 11, 1994, joining the Army National Guard as a medic.

Staff Sergeant Jameson was the epitome of a selfless individual, always giving a hand to others. During a mission to the Treybul border crossing on the Iraqi-Jordan border on July 14, 2005, an improvised explosive device off the side of the road struck the M997 ambulance that she commanded. Staff Sergeant Jameson bravely lost her life in this attack, but she died as she lived, helping others no matter the risk to herself, as she was on her way to assist injured marines who had been wounded by an earlier device. Wanting to make a difference, Staff Sergeant Jameson was a volunteer in the 313th Medical Company, GA, in support of Operation Iraqi Freedom. She was promoted to sergeant first class posthumously.

Giving her life to save others and to the cause of freedom, Staff Sergeant Jameson was the finest example of courage. She is survived by her mother, Patricia, and brother, Robert, among many other friends, family, and fellow soldiers. I offer my heartfelt prayers and thoughts to Staff Sergeant Jameson's family. She made the ultimate and most courageous sacrifice to spread freedom and hope and to defend liberty. She was a person of incredible altruism, and both Americans and Nebraskans alike will not forget what she gave to our great Nation.

SERGEANT JASON T. PALMERTON

Mr. President, I rise today to honor SGT Jason T. Palmerton of Auburn, NE.

Sergeant Jason Palmerton had a desire to selflessly give his all to his country. Born in Hamburg, IA, but growing up in Auburn, NE, he graduated from Auburn High School in 1998. After several years doing mechanical maintenance in Lincoln, Palmerton decided to enlist in July of 2002, requesting to be in the most rigorously trained Special Forces Group. Six weeks ago, after nearly 3 years of training, Sergeant Palmerton became a Green Beret and was deployed to Afghanistan with his 12-man team.

At the age of 25, Sergeant Palmerton died on July 23, 2005, after sustaining bullet wounds on dismounted patrol during his service in Operation Enduring Freedom in Qal'eh-Yegaz, Afghanistan. He was a member of the 1st Battalion, 3rd Special Forces Group based out of Fort Bragg, NC. All Americans should honor Sergeant Palmerton's courage and patriotism as he aimed to become a highly trained Green Beret from his first days in boot camp, knowing both the difficulty and risk associated with the achievement. For the past 6 weeks, he continued to serve bravely in the unstable and dangerous environment of southern Afghanistan.

Sergeant Palmerton left behind his fiancée, Shelley Austin, parents, and numerous other friends, family, and fellow soldiers. I offer my sincere condolences and prayers to Sergeant Palmerton's family. He gave his life to save and honor the liberties of America, and his passion to achieve this end will long be remembered.

SGT Jason Palmerton's sacrifice is the essence of the American freedom and he fought to save that freedom for all Nebraskans and Americans alike.

THE PROMOTION OF MARINE CORPS GENERAL PETE PACE

Mr. LEAHY. Mr. President, General Peter Pace will soon become the next

Chairman of the Joint Chiefs of Staff. There is no person more deserving of this honor and more ready to take on this awesome responsibility than General Pace, who has served the country with great distinction in the Marine Corps for almost four decades. I know the entire Senate joins me in congratulating him and in extending all best wishes as he assumes his new post as the primary military adviser to the Secretary of Defense and the President of the United States.

General Pace assumes the position at a difficult and a delicate time in our Nation's security situation. We are trying to bring political stability to Iraq, carrying out an intense counter-insurgency in a country rife with sectarian tensions and outright violence. The war in Iraq and ongoing operations in Afghanistan are placing enormous stress on our military's equipment, long-range planning, and, most importantly, its people. Our defense forces are also heavily engaged in the relief effort in the aftermath of Hurricanes Katrina and Rita. Active-Duty military personnel from each service are working closely with the National Guard to help Louisiana, Mississippi, and Texas to recover from these catastrophes.

Yet if there is any military officer who will help the Nation's leaders understand the possibilities and limitations of military power in this ever-shifting international landscape, and mobilize our capabilities to best effect, it is General Peter Pace. General Pace has an extraordinary background forged through his strength of character, sharpness of intellect, and generosity of heart. General Pace is also a straight-talker, always speaking clearly and thoughtfully. He is a consummate professional who will also serve as a true leader, adviser, and spokesperson for the Department of Defense.

The depth and strength of General Pace's qualities and capabilities also come from his real-world experiences. Born in Brooklyn and raised in Teaneck, NJ, General Pace was commissioned in 1967. Soon after his graduation from the U.S. Naval Academy, he embarked on his stellar career and service in the Marine Corps. He served heroically in Vietnam, where he earned a Bronze Star in the line of fire.

As he rose through the ranks, General Pace has commanded recruiting stations and infantry battalions. At each posting he has brought a strong sense of purpose, strength, and insight. He has also served as an executive officer and chief of staff to high level officers before becoming one himself. In the early 1990s, he was deputy commander of our Marines in Somalia. In every one of his postings, higher ranking officials have wisely recognized his talents and skills and sought to put them to use.

General Pace will become the first marine to serve as the Chairman of the Joint Chiefs of Staff, just as he was the first marine to become the Vice Chairman. As Vice Chairman, he served the President, Secretary of Defense Rumsfeld, and Chairman Richard Myers superbly, overseeing the often complicated military requirements process and ensuring that the enormous staff of the Joint Chiefs runs smoothly. As a member of the Joint Chiefs, he contributed his wide-ranging insights and knowledge, as this important group tackled crises like the attacks of September 11 and the war in Iraq.

General Pace is devoted to his family—his wife Lynne and two children, Peter and Tiffany Marie and my wife Marcelle and I have enjoyed the time we have spent with them. We know that part of the dignity and strength that the general will bring to this new position comes from that incredible and invaluable family support.

I know that the entire Senate is proud of General Pete Pace and the Senate, like me, will want to wish him warm congratulations, deep appreciation and all best wishes in his new position.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On June 1, 2004, a man was stabbed by three men outside his home in Seattle, WA. The apparent motivation for the attack was the man's sexual orientation.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

BUDGET COMMITTEE SCORING OF H.R. 2528

Mr. GREGG. Mr. President, the pending military quality of life and Department of Veterans Affairs appropriations bill for fiscal year 2006, H.R. 2528, as reported by the Senate Committee on Appropriations provides $80.580 billion in budget authority and $78.070 billion in outlays in fiscal year 2006 for the Military Construction and the Department of Veterans Affairs programs. Of these totals, $36.198 billion in budget authority and $36.108 billion outlays are for mandatory programs in fiscal year 2006.

The bill provides total discretionary budget authority in fiscal year 2006 of $44.382 billion. This amount is $797 million above the President's request, at the 302(b) allocations adopted by the Senate, $40.8 billion below the House-passed bill, and $3.6 billion above fiscal year 2005 enacted levels.

I commend the distinguished chairman of the Appropriations Committee for bringing this legislation before the Senate, and I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 2528, 2006 MILITARY CONSTRUCTION AND VETERANS AFFAIRS APPROPRIATIONS

[Spending comparisons—Senate-reported bill (fiscal year 2006, $ millions)]

	General purpose	Mandatory	Total
Senate-reported bill:			
Budget authority	44,382	36,198	80,580
Outlays	41,962	36,108	78,070
Senate 302(b) allocation:			
Budget authority	44,382	36,198	80,580
Outlays	41,962	36,108	78,070
2005 Enacted:			
Budget authority	40,772	36,995	77,767
Outlays	40,655	36,923	77,578
President's request:			
Budget authority	43,585	35,640	79,225
Outlays	41,370	35,570	76,940
House-passed bill: [1]			
Budget authority	85,158	35,640	120,798
Outlays	81,634	35,570	117,204
SENATE-REPORTED BILL COMPARED TO			
Senate 302(b) allocation:			
Budget authority	0	0	0
Outlays	0	0	0
2005 Enacted:			
Budget authority	3,610	−797	2,813
Outlays	1,307	−815	492

H.R. 2528, 2006 MILITARY CONSTRUCTION AND VETERANS AFFAIRS APPROPRIATIONS—Continued

[Spending comparisons—Senate-reported bill (fiscal year 2006, $ millions)]

	General purpose	Mandatory	Total
President's request:			
Budget authority	797	558	1,355
Outlays	592	538	1,130

[1] House and Senate bills having different jurisdictions.

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

BUDGET SCOREKEEPING REPORT

Mr. GREGG. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the 2006 budget through September 21, 2005. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2006 concurrent resolution on the budget, H. Con. Res. 95. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the attached report excludes these amounts.

The estimates show that current level spending is under the budget resolution by $795.5 billion in budget authority and by $494.6 billion in outlays in 2006. Current level for revenues is $17.3 billion above the budget resolution in 2006.

This is my first report for fiscal year 2006.

I ask unanimous consent to have printed in the RECORD the attached letter and accompanying documentation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 22, 2005.

Hon. JUDD GREGG,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR CHAIRMAN: The enclosed tables show the effects of Congressional action on the 2006 budget and are current through September 21, 2005. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions for fiscal year 2006 that underlie H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 1 of the report).

This is my first report for fiscal year 2006.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2006, AS OF SEPTEMBER 21, 2005

[In billions of dollars]

	Budget resolution [1]	Current level [2]	Current level over- under (−) resolution
On-Budget:			
Budget Authority	2,094.4	1,298.9	−795.5
Outlay	2,099.0	1,604.4	−494.6
Revenues	1,589.9	1,607.2	17.3
Off-Budget:			
Social Security Outlays	416.0	416.0	0
Social Security Revenues	604.8	604.8	0

Source: Congressional Budget Office.

[1] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2006, in the amount of $50 billion in budget authority and approximately $62.4 billion in outlays, which would be exempt from the enforcement of the budget resolution. Since current level excludes the emergency appropriations in P.L. 109–13, P.L. 109–61, P.L. 106–62, H.R. 3672, and H.R. 3768 (see footnote 1 on Table 2), the budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

[2] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2006, AS OF SEPTEMBER 21, 2005

[In millions of dollars]

	Budget Authority	Outlays	Revenues
Enacted in Previous Sessions:			
Revenues	n.a.	n.a.	1,607,650
Permanents and other spending legislation	1,297,743	1,254,376	n.a.
Appropriation legislation	0	382,272	n.a.
Offsetting receipts	−479,872	−479,872	n.a.
Total, enacted in previous sessions:	817,871	1,156,776	1,607,650
Enacted This Session:			
Authorizing Legislation:			
TANF Extension Act of 2005 (P.L. 109–19)	148	165	0
An act approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of2005 (P.L. 109–39)	0	0	−1
Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (P.L. 109–53).	27	27	−3
Energy Policy Act of 2005 (P.L. 109–58)	141	231	−588
Safe, Accountable, Flexible, Efficient Transportation Equity Act:			
A Legacy for Users (P.L. 109–59)	3,444	36	9
National Flood Insurance Program Enhanced Borrowing Authority Act of 2005 (P.L. 109–65).	2,000	2,000	0
Pell Grant Hurricane and Disaster Relief Act (P.L. 109–66)	2	2	0
TANF Emergency Response and Recovery Act of 2005 (P.L. 109–68)	−4,965	105	0
Appropriation Acts:			
Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13) [2]	−39	−36	11
Interior Appropriations Act, 2006 (P.L. 109–54)	26,211	17,301	122
Legislative Branch Appropriations Act, 2006 (P.L. 109–55)	3,804	3,185	0
Total, enacted this session:	30,773	23,016	−450
Entitlements and mandatories:			
Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs	450,207	424,587	n.a.
Total Current Level [1, 2]	1,298,851	1,604,379	1,607,200
Total Budget Resolution	2,144,384	2,161,420	1,589,892
Adjustment to budget resolution for emergency requirements [3]	−50,000	−62,424	n.a.
Adjusted Budget Resolution	2,094,384	2,098,996	n.a.
Current Level Over Adjusted Budget Resolution	n.a.	n.a.	17,308
Current Level Under Adjusted Budget Resolution	795,533	494,617	n.a.

SOURCE: Congressional Budget Office.

NOTES: n.a. = not applicable; P.L. = Public Law.

[1] Pursuant to section 402 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, provisions designated as emergency requirements are exempt from enforcement ofthe budget resolution. As a result, the current level excludes: $30,757 million in outlays from the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13); $7,750 million in outlays from the Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (P.L. 109–61); $21,841 million in outlays from the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (P.L. 109–62); $200 million in budget authority and $245 million in outlays from the TANF Emergency Response and Recovery Act of 2005 (P.L. 109–68); and −$3,191 million in revenues and $128 million in budget authority and outlays from the Katrina Emergency Tax Relief Act of 2005 (H.R. 3768).

[2] Excludes administrative expenses of the Social Security Administration, which are off-budget.

[3] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2006, in the amount of $50,000 million in budget authority and $62,424 million in outlays, which would be exempt from the enforcement of the budget resolution. Since current level excludes the emergency appropriations in P.L. 109–13, P.L. 109–61 and P.L. 106–62 (see footnote 1 above), the budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

COMMEMORATING THE 250TH BIRTHDAY OF JOHN MARSHALL

Mr. ALLEN. Mr. President, I am pleased today to honor the birth of one of Virginia's and America's true citizen soldiers, statesmen, and most importantly jurists, the former Chief Justice of the United States, John Marshall.

The 250th commemoration of his birth over the weekend takes on special significance this week as the Senate prepares to confirm John Roberts as the 17th Chief Justice of the United States. He will replace Chief Justice William Rehnquist, whose decent, dedicated and principled leadership will be difficult to replace. I am confident that Judge Roberts will follow in the tradition of honorable service that was so evident in the work of former Chief Justices Rehnquist and Marshall.

John Marshall's legacy as a Federalist is truly remarkable, but what many people fail to address is his true love for a young America and the desire to see our country succeed and persevere for generations to come.

A native Virginian, from Germantown, he grew up with his parents Thomas and Mary Randolph Keith. His devotion to our Nation was ever present when the Revolutionary War began with the firing of the historic shots at Lexington and Concord. Like so many of his great countrymen, Marshall did not waver in spirit or succumb to fear; Marshall picked up arms against the tyrannical oppressive British Crown and defended the freedom and liberty that he envisioned for Virginians and other colonies.

At the young age of 20, Marshall joined the Culpeper Minute Men. He was chosen a lieutenant. Marshall proceeded to nobly fight in the battle of Great Bridge. In fact, while enduring the cold winter at Valley Forge, Marshall was General George Washington's chief legal officer and by the end of his military service, John Marshall was a brigadier general for the Second Brigade in the Virginia Militia.

After his valiant war service, Marshall returned to Virginia to study law under George Wythe at the College of William and Mary. He was admitted to Phi Beta Kappa and the Virginia Bar. Marshall's desire to practice in the courts and the court of appeals led him to the great capital city of Richmond. It is in Richmond where Marshall's political and judicial life began to flourish.

John Marshall became one of the leading attorneys defending Virginians in the United States District Court of Virginia, and as a consequence, he was selected to be the lead counsel in arguing the landmark case, Ware v. Hylton, in the 1796 term of the United States Supreme Court. This would be the only case that John Marshall would argue before the Nation's highest court and, ironically, he lost.

Like his legal career, Marshall saw success in politics. He held legislative office as a member of the Virginia House of Delegates, a member of the Governor's Council of State, and finally as a member of the United States House of Representatives. But one of his most important, yet often overlooked roles is his election to the Virginia convention that ratified the Federal Constitution. Marshall rose and delivered a very poignant speech on the role of the judiciary. This speech dispelled many of the fears of a Federal court system and truly defined his views on the proper function of government.

Nonetheless, John Marshall was not a boisterous individual. He refused many attempts by President Adams to appoint him to Federal office. But he accepted and served as a diplomatic envoy to France for President Adams as well as Adams' Secretary of State. It was his dedicated service as Secretary of State that led President Adams to appoint Marshall to the United States Supreme Court, where his legacy would endure.

We all know the landmark cases that John Marshall decided. From McCulloch v. Maryland to Gibbons v. Ogden, Marshall's contribution to the American judiciary system is ever present. But the case that truly enshrines his legacy is his ruling in Marbury v. Madison. In truth, what made this even more impressive was that Marbury was the very first case that the Supreme Court heard under the leadership of Chief Justice Marshall.

The Marshall Court's ruling in Marbury v. Madison has defined the role of the Supreme Court and its pivotal place in our system of checks and balances. Although the decision limited the power of the Supreme Court, it also served to establish the Court's authority to review the constitutionality of acts of Congress. The doctrine of judicial review became a fundamental principle of Constitutional law.

While I am a Jeffersonian who wishes to limit the reach and meddling of the Federal Government into the rights and prerogatives of the people and the States, I do believe these foundational Constitutional questions, debates, and decisions are noteworthy for the education of our present leaders and students. By commemorating historical figures such as John Marshall, we will help our young people better understand American history and what it means to be a citizen of the United States. One thing is certain: John Marshall deserves a prominent place in this Nation's history for his life of service and the impact he made on America even after death. It was, after all, Chief Justice Marshall's funeral that caused the famous crack in the Liberty Bell when it tolled for his procession in 1835. Indeed, John's Marshall's indelible mark in American lore came in many forms.

And so it is with great honor that I celebrate the birthday of one of our great citizen soldiers, statesmen, and Chief Justices. We should celebrate John Marshall's contribution to our country. His steadfast commitment to federalism helped define the role of the courts and may have ultimately preserved the delicate equilibrium of our Government. But what trumped his loyalty to the federalist way of life, was his love for his Nation and his desire to see America flourish into the great country that it is today.

I would like to take this opportunity to wish a happy birthday to Chief Justice John Marshall, who was born 250 years ago in the great Commonwealth of Virginia. May Virginia and America continue to be blessed with men and women of his unflinching character and spirit.

SIMON WIESENTHAL

Mr. COLEMAN. Mr. President, there are many kinds of heroes in our world.

Some create magnificent works of art which raise our spirits to nobler visions.

Some make tremendous scientific discoveries which revolutionize our understanding and our use of nature for human good.

Some reach unprecedented achievement by adventuring where humans have never been before.

But today we are honoring the late Simon Wiesenthal, a different kind of hero who didn't achieve in the realm of beauty, science or adventure. His life achievement instead was to hold up to humanity the truth about one of its ugliest chapters. He faced what is worst in humankind, and triumphed over it.

In almost every culture the concept of justice begins with finding the truth. Simon Wiesenthal was a principled and indefatigable pursuer of the truth of the Nazi holocaust. He was not content to let the stain of the Nazi murder of Jews and others to be washed away with the passage of time. He sought to document their acts so that they could be recorded forever.

But his life's work went beyond finding the truth. He traveled the globe to make sure surviving members of the Third Reich were held accountable for their monstrous crimes.

He summed up his life with the words ''Never forget. Never again.'' He made us recognize that the simple act of forgetting opened the door for the unthinkable to recur.

World history tells us that every terrible evil starts small and grows to the point where it cannot be controlled except by extraordinary means and cost.

Simon Wiesenthal's life teaches us to deal with anti-Semitism wherever it rears its head so that we don't allow it to grow into something we can no longer stop.

He urged us not only to face the truth, but to act upon it.

Centuries ago a Spanish Rabbi named Maimomedes said this:

> Each of us should view ourselves as if the world were held in balance and a single act of goodness may tip the scales.

Simon Wiesenthal did countless acts of goodness and tipped the scales of

world history and we honor him for that. But he also places a burden on all of us, for posterity's sake, to do our part, to raise our voices and to take action whenever we see hatred rear its head.

We honor him best by devoting ourselves to the work of justice and action he accomplished.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1761. A bill to clarify the liability of government contractors assisting in rescue, recovery, repair, and reconstruction work in the Gulf Coast region of the United States affected by Hurricane Katrina or other major disasters.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1771. A bill to express the sense of Congress and to improve reporting with respect to the safety of workers in the response and recovery activities related to Hurricane Katrina, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3978. A communication from the Coordinator, Forms Committee, Federal Election Commission, transmitting, pursuant to law, the report of revisions to FEC Form 5, FEC Form 6, and FEC Form 10; to the Committee on Rules and Administration.

EC–3979. A communication from the Employee Benefits Program Manager, Personal and Family Readiness Division, United States Marine Corps, transmitting, pursuant to law, the 2005 annual report for the Retirement Plan for Civilian Employees of the United States Marine Corps Personal and Family Readiness Division and Miscellaneous Nonappropriated Fund Instrumentalities; to the Committee on Homeland Security and Governmental Affairs.

EC–3980. A communication from the Regulations Officer, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Revised Medical Criteria for Evaluating Impairments That Affect Multiple Body Systems'' received on September 18, 2005; to the Committee on Finance.

EC–3981. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency and related measures blocking property of persons undermining democratic processes or institutions in Zimbabwe that was declared in Executive Order 13288 of March 6, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–3982. A communication from the Under Secretary, Emergency Preparedness and Response, Department of Homeland Security, transmitting, pursuant to law, a report that funding for the State of Texas as a result of the emergency conditions resulting from the influx of evacuees from areas struck by Hurricane Katrina beginning on August 29, 2005, and continuing, has exceeded $5,000,000; to the Committee on Banking, Housing, and Urban Affairs.

EC–3983. A communication from the Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Mixed-Finance Development for Supportive Housing for the Elderly or Persons With Disabilities and Other Changes to 24 CFR Part 891'' ((RIN2502–AH83)(FR–4725–F–02)) received on September 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3984. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, the report of a draft bill entitled ''To Rename Dayton Aviation Heritage National Historical Park in the State of Ohio as 'Wright Brothers-Dunbar National Historical Park' ''; to the Committee on Energy and Natural Resources.

EC–3985. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, the Administration's International Energy Outlook 2005 (IEO2005); to the Committee on Energy and Natural Resources.

EC–3986. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, the Commission's Year 2005 Inventory of Commercial Activities; to the Committee on Energy and Natural Resources.

EC–3987. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Board's Fiscal Year 2005 Annual Report on Commercial Activities; to the Committee on Energy and Natural Resources.

EC–3988. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report on the general social, political, and economic conditions in the Republic of the Marshall Islands and the Federated States of Micronesia; to the Committee on Energy and Natural Resources.

EC–3989. A communication from the Chief Human Capital Officer, Office of Environmental Management, Department of Energy, transmitting, pursuant to law, the report of a confirmation in the position of Assistant Secretary for Environmental Management, received on September 21, 2005; to the Committee on Energy and Natural Resources.

EC–3990. A communication from the Chief Human Capital Officer Office of Congressional and Intergovernmental Affairs, Department of Energy, transmitting, pursuant to law, the report of a confirmation in the position of Assistant Secretary, Congressional and Intergovernmental Affairs, received on September 21, 2005; to the Committee on Energy and Natural Resources.

EC–3991. A communication from the Chairman, National Labor Relations Board, transmitting, pursuant to law, the Board's inventory of inherently governmental and commercial activities; to the Committee on Health, Education, Labor, and Pensions.

EC–3992. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Immunology and Microbiology Devices; Classification of Ribonucleic Acid Preanalytical Systems'' (Docket No. 2005N–0263) received on August 21, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3993. A communication from Acting Director, Directorate of Standards and Guidance, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Updating OSHA Standards Based on National Consensus Standards'' (RIN1218–AC08) received on September 21, 2005; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 37. A bill to extend the special postage stamp for breast cancer research for 2 years (Rept. No. 109–140).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. SNOWE:

S. 1767. A bill to require the Federal Communications Commission to reevaluate the band plans for the upper 700 megaHertz band and the un-auctioned portions of the lower 700 megaHertz band and reconfigure them to include spectrum to be licensed for small geographic areas; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER (for himself, Mr. LEAHY, Mr. CORNYN, Mr. ALLEN, Mr. GRASSLEY, Mr. SCHUMER, and Mr. FEINGOLD):

S. 1768. A bill to permit the televising of Supreme Court proceedings; to the Committee on the Judiciary.

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. ALEXANDER, Mr. DODD, Mr. BURR, Ms. MIKULSKI, Mr. DEWINE, and Mrs. CLINTON):

S. 1769. A bill to provide relief to individuals and businesses affected by Hurricane Katrina related to healthcare and health insurance coverage, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. OBAMA (for himself, Mrs. MURRAY, Mr. CORZINE, Mr. KERRY, and Mr. LEVIN):

S. 1770. A bill to amend the Internal Revenue Code of 1986 to provide for advance payment of the earned income tax credit and the child tax credit for 2005 in order to provide needed funds to victims of Hurricane Katrina and to stimulate local economies; to the Committee on Finance.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1771. A bill to express the sense of Congress and to improve reporting with respect to the safety of workers in the response and recovery activities related to Hurricane Katrina, and for other purposes; read the first time.

By Mr. INHOFE (for himself, Mr. DEMINT, Ms. MURKOWSKI, Mr. VOINOVICH, Mr. ISAKSON, Mr. THUNE, and Mr. BOND):

S. 1772. A bill to streamline the refinery permitting process and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1773. A bill to resolve certain Native American claims in New Mexico, and for other purposes; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ENSIGN (for himself, Mr. SANTORUM, and Mr. LEVIN):

S. Res. 251. A resolution expressing the sense of the Senate that the President should ensure that Federal response and recovery efforts for Hurricane Katrina include consideration for animal rescue and care; considered and agreed to.

ADDITIONAL COSPONSORS

S. 191

At the request of Mr. SMITH, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 191, a bill to extend certain trade preferences to certain least-developed countries, and for other purposes.

S. 484

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 555

At the request of Mr. DEWINE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 555, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 602

At the request of Ms. MIKULSKI, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 602, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 635

At the request of Mr. SANTORUM, the names of the Senator from Montana (Mr. BURNS), the Senator from Minnesota (Mr. DAYTON), the Senator from Arkansas (Mr. PRYOR) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. 635, a bill to amend title XVIII of the Social Security Act to improve the benefits under the medicare program for beneficiaries with kidney disease, and for other purposes.

S. 889

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 889, a bill to amend title 49, United States Code, to require phased increases in the fuel efficiency standards applicable to light trucks, to require fuel economy standards for automobiles up to 10,000 pounds gross vehicle weight, to increase the fuel economy of the Federal fleet of vehicles, and for other purposes.

S. 1081

At the request of Mr. KYL, the name of the Senator from Pennsylvania (Mr. SPECTER) 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.

S. 1112

At the request of Mr. GRASSLEY, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1172

At the request of Mr. SPECTER, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1197

At the request of Mr. BIDEN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1197, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1269

At the request of Mr. INHOFE, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 1269, a bill to amend the Federal Water Pollution Control Act to clarify certain activities the conduct of which does not require a permit.

S. 1272

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1272, a bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 1319

At the request of Mrs. LINCOLN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1319, a bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes.

S. 1360

At the request of Mr. SMITH, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1360, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes.

S. 1403

At the request of Mr. WYDEN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1403, a bill to amend title XVIII of the Social Security Act to extend reasonable cost contracts under medicare.

S. 1418

At the request of Mr. ENZI, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1418, a bill to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States.

S. 1424

At the request of Mr. ENSIGN, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1424, a bill to remove the restrictions on commercial air service at Love Field, Texas.

S. 1462

At the request of Mr. CORZINE, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1462, a bill to promote peace and accountability in Sudan, and for other purposes.

S. 1523

At the request of Ms. SNOWE, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1523, a bill to amend the Internal Revenue Code of 1986 to make permanent increased expensing for small businesses.

S. 1700

At the request of Mr. COBURN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1700, a bill to establish an Office of the Hurricane Katrina Recovery Chief Financial Officer, and for other purposes.

S. 1716

At the request of Mr. GRASSLEY, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1716, a bill to provide emergency health care relief for survivors of Hurricane Katrina, and for other purposes.

S. 1735

At the request of Ms. CANTWELL, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1735, a bill to improve the Federal Trade Commissions's ability to protect consumers from price-gouging during energy emergencies, and for other purposes.

S. 1749

At the request of Mr. KENNEDY, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1749, a bill to reinstate the application of the wage requirements of the Davis-Bacon Act to Federal contracts in areas affected by Hurricane Katrina.

S. 1750

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1750, a bill to provide for the issuance of certificates to Social Security beneficiaries who are born before 1950 guaranteeing their right to receive Social Security benefits under title II of the Social Security Act in full with an accurate annual cost-of-living adjustment.

S. RES. 155

At the request of Mr. BROWNBACK, his name was added as a cosponsor of S. Res. 155, a resolution designating the week of November 6 through November

12, 2005, as ''National Veterans Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 236

At the request of Mr. COLEMAN, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. Res. 236, a resolution recognizing the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis, supporting the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week, and for other purposes.

S. RES. 237

At the request of Mr. VOINOVICH, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Kansas (Mr. BROWNBACK), the Senator from California (Mrs. FEINSTEIN), the Senator from Virginia (Mr. ALLEN) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. Res. 237, a resolution expressing the sense of the Senate on reaching an agreement on the future status of Kosovo.

S. RES. 245

At the request of Mr. SCHUMER, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. Res. 245, a resolution recognizing the life and accomplishments of Simon Wiesenthal.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 1767. A bill to require the Federal Communications Commission to reevaluate the band plans for the upper 700 megaHertz band and the un-auctioned portions of the lower 700 megaHertz band and reconfigure them to include spectrum to be licensed for small geographic areas; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today with the support of many of my colleagues on the Committee on Commerce, Science and Transportation to introduce legislation to encourage the deployment of next generation wireless services in rural areas. Cell phones have become a vital part of so many lives. Today, there are over 194 million wireless subscribers in the United States—a subscribership that continues to grow. I want to be sure we foster an environment where this technology and future wireless technologies can flourish.

Along with mobility, convenience and safety, cell phones today also have benefits of information access and entertainment. While wireless phones have been rapidly adopted by the general public, wireless service is far from being without flaws. I myself become frustrated while home in Maine when I cannot get cell phone and blackberry service. Something must be done in order to improve the wireless services that so many people rely on.

Wireless services, such as cell phones, wireless handheld devices and some Internet services utilize frequencies on the radio spectrum to transfer voice and data from one user to another. It is the job of the service provider to turn these airwaves into the valuable services that consumers demand. The quality of service in a given place depends on how much investment the service provider has put into infrastructure. More urban locations tend to have better service because the return on investment is much higher due to the concentration of customers. This does not mean that rural areas are left without service. Viable business models exist that can sustain service in these more remote locations. Oftentimes smaller, local wireless companies can serve these areas better than nationwide service providers.

One of the greatest barriers to entry in the wireless industry is acquiring a spectrum license in which a service can be operated. Companies bid up to billions of dollars for rights to one of Nation's most important resources. The digital television transition will soon release new spectrum into the marketplace. Currently, the Federal Communications Commission is slated to auction off the spectrum in licenses that cover large geographic areas. While this may be the preferred size for national wireless carriers, smaller companies will be unable to compete in the bidding process.

The bill I introduce today aims to address this problem by directing the Federal Communications Commission to reevaluate its current bandplan for the 700 MHz spectrum that will be auctioned as a result of the digital television transition. In this reevaluation, the FCC must divide some of the frequency allocations into smaller area licenses so that local and regional wireless companies can have an opportunity to compete in the bidding process. The proper balance of large and small licenses will encourage the deployment of advanced services throughout all parts of the United States.

This bill is not meant to circumvent the expertise of the Federal Communications Commission. It merely directs the FCC to use its expertise to develop a plan that will benefit the entire nation. Rural America deserves the same benefits of wireless technologies that are available in urban areas. This Act gives those best able to serve remote areas the tools needed to deploy services.

By Mr. SPECTER (for himself, Mr. LEAHY, Mr. CORNYN, Mr. ALLEN, Mr. GRASSLEY, Mr. SCHUMER, and Mr. FEINGOLD):

S. 1768. A bill to permit the televising of Supreme Court proceedings; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition to introduce legislation that will give the public greater access to our Supreme Court. This bill requires the high Court to permit television coverage of its open sessions unless it decides by a vote of the majority of Justices that allowing such coverage in a particular case would violate the due process rights of one or more of the parties involved in the matter.

The purpose of this legislation is to open the Supreme Court doors so that more Americans can see the process by which the Court reaches critical decisions of law that affect this country and everyday Americans. Because the Supreme Court of the United States holds power to decide cutting-edge questions on public policy, thereby effectively becoming a virtual ''super legislature,'' the public has a right to know what the Supreme Court is doing. And that right would be substantially enhanced by televising the oral arguments of the Court so that the public can see and hear the issues presented to the Court. With this information, the public would have insight into key issues and be better equipped to understand the impact of the Court's decisions.

In a very fundamental sense, televising the Supreme Court has been implicitly recognized—perhaps even sanctioned—in a 1980 decision by the Supreme Court of the United States entitled Richmond Newspapers v. Virginia. In this case, the Supreme Court noted that a public trial belongs not only to the accused, but to the public and the press as well; and that people now acquire information on court procedures chiefly through the print and electronic media.

That decision, in referencing the electronic media, appears to anticipate televising court proceedings, although I do not mean to suggest that the Supreme Court is in agreement with this legislation. I should note that the Court could, on its own motion, televise its proceedings but has chosen not to do so, which presents, in my view, the necessity for legislating on this subject.

When I argued the case of the Navy Yard, Dalton v. Specter, back in 1994, the Court proceedings were illustrated by an artist's drawings. Now, however, the public gets a substantial portion, if not most, of its information from television and the internet. While many court proceedings are broadcast routinely on television, the public has little access to the most important and highest court in this country. The public must either rely on the print media, or stand in long lines outside the Supreme Court in Washington DC in order to get a brief glimpse of the open session from the public gallery.

Justice Felix Frankfurter perhaps anticipated the day when Supreme Court arguments would be televised when he said that he longed for a day when: The news media would cover the Supreme Court as thoroughly as it did the World Series, since the public confidence in the judiciary hinges on the

public's perception of it, and that perception necessarily hinges on the media's portrayal of the legal system.

When I spoke in favor of this legislation in September of 2000, I said, ''I do not expect a rush to judgment on this very complex proposition, but I do believe the day will come when the Supreme Court of the United States will be televised. That day will come, and it will be decisively in the public interest so the public will know the magnitude of what the Court is deciding and its role in our democratic process.'' Today, I believe the time has come and that this legislation is crucial to the public's awareness of Supreme Court proceedings and their impact on the daily lives of all Americans.

I pause to note that it was not until 1955 that the Supreme Court, under the leadership of Chief Justice Warren, first began permitting audio recordings of oral arguments. Between 1955 and 1993, there were apparently over 5,000 recorded arguments before the Supreme Court. That roughly translates to an average of about one hundred thirty two (132) arguments annually. But audio recordings are simply ill suited to capture the nuance of oral arguments and the sustained attention of the American citizenry. Nor is it any response that people who wish to see open sessions of the Supreme Court should come to the Capital and attend oral arguments. For, according to one source: Several million people each year visit Washington, D.C., and many thousands tour the White House and the Capital. But few have the chance to sit in the Supreme Court chamber and witness an entire oral argument. Most tourists are given just three minutes before they are shuttled out and a new group shuttled in. In cases that attract headlines, seats for the public are scarce and waiting lines are long. And the Court sits in open session less than two hundred hours each year. Television cameras and radio microphones are still banned from the chamber, and only a few hundred people at most can actually witness oral arguments. Protected by a marble wall from public access, the Supreme Court has long been the least understood of the three branches of our federal government.

In light of the increasing public desire for information, it seems untenable to continue excluding cameras from the courtroom of the Nation's highest court. As one legal commentator observes: An effective and legitimate way to satisfy America's curiosity about the Supreme Court's holdings, Justices, and modus operandi is to permit broadcast coverage of oral arguments and decision announcements from the courtroom itself.

Televised court proceedings better enable the public to understand the role of the Supreme Court and its impact on the key decisions of the day. Not only has the Supreme Court invalidated Congressional decisions where there is, in the views of many, simply a difference of opinion to what is preferable public policy, but the Court determines novel issues such as whether AIDS is a disability under the Americans with Disabilities Act, whether Congress can ban obscenity from the Internet, and whether states can impose term limits upon members of Congress. The current Court, like its predecessors, hands down decisions which vitally affect the lives of all Americans. Since the Court's historic 1803 decision, Marbury v. Madison, the Supreme Court has the final authority on issues of enormous importance from birth to death. In Roe v. Wade (1973), the Court affirmed a Constitutional right to abortion in this country and struck down state statutes banning or severely restricting abortion during the first two trimesters on the grounds that they violated a right to privacy inherent in the Due Process Clause of the Fourteenth Amendment. In the case of Washington v. Glucksberg (1997), the court refused to create a similar right to assisted suicide. Here the Court held that the Due Process Clause does not recognize a liberty interest that includes a right to commit suicide with another's assistance.

In the seventies, the Court first struck down then upheld state statutes imposing the death penalty for certain crimes. In Furman v. Georgia (1972), the Court struck down Georgia's death penalty statute under the cruel and unusual punishment clause of the Eighth Amendment and stated that no death penalty law could pass constitutional muster unless it took aggravating and mitigating circumstances into account. This decision led Georgia and many states to amend their death penalty statutes and, four years later, in Gregg v. Georgia (1976), the Supreme Court upheld Georgia's amended death penalty statute.

Over the years, the Court has also played a major role in issues of war and peace. In its opinion in Scott v. Sanford (1857)—better known as the Dredd Scott decision—the Supreme Court held that Dredd Scott, a slave who had been taken into ''free'' territory by his owner, was nevertheless still a slave. The Court further held that Congress lacked the power to abolish slavery in certain territories, thereby invalidating the careful balance that had been worked out between the North and the South on the issue. Historians have noted that this opinion fanned the flames that led to the Civil War.

The Supreme Court has also ensured adherence to the Constitution during more recent conflicts. Prominent opponents of the Vietnam War repeatedly petitioned the Court to declare the Presidential action unconstitutional on the grounds that Congress had never given the President a declaration of war. The Court decided to leave this conflict in the political arena and repeatedly refused to grant writs of certiorari to hear these cases. This prompted Justice Douglas, sometimes accompanied by Justices Stewart and Harlan, to take the unusual step of writing lengthy dissents to the denials of cert.

In New York Times Co. v. United States (1971)—the so called ''Pentagon Papers'' case—the Court refused to grant the government prior restraint to prevent the New York Times from publishing leaked Defense Department documents which revealed damaging information about the Johnson Administration and the war effort. The publication of these documents by the New York Times is believed to have helped move public opinion against the war.

In its landmark civil rights opinions, the Supreme Court took the lead in effecting needed social change, helping us to address fundamental questions about our society in the courts rather than in the streets. In Brown v. Board of Education, the Court struck down the principle of ''separate but equal'' education for blacks and whites and integrated public education in this country. This case was then followed by a series of civil rights cases which enforced the concept of integration and full equality for all citizens of this country, including Garner v. Louisiana, 1961, Burton v. Wilmington Parking Authority, 1961, and Peterson v. City of Greenville, 1963.

In recent years Marbury, Dred Scott, Furman, New York Times, and Roe, familiar names in the lexicon of lawyerly discussions concerning watershed Supreme Court precedents, have been joined with similarly important cases like Hamdi, Rasul and Roper all cases that affect fundamental individual rights. In Hamdi v. Rumsfeld, 2004, the Court concluded that although Congress authorized the detention of combatants, due process demands that a citizen held in the United States as an enemy combatant be given a meaningful opportunity to contest the factual basis for that detention before a neutral decisionmaker. The Court reaffirmed the nation's commitment to constitutional principles even during times of war and uncertainty. Similarly, in Rasul v. Bush, 2004, the Court held that the federal habeas statute gave district courts jurisdiction to hear challenges of aliens held at Guantanamo Bay, Cuba in the U.S. War on Terrorism. Earlier this year in Roper v. Simmons, 2005, the Court held that executions of individuals who were under 18 years of age at the time of their capital crimes is prohibited by Eighth and Fourteenth Amendments.

In June of this year, the Supreme Court issued Kelo v. City of New London, 2005, a highly controversial opinion in which a majority of the justices held that a city's exercise of eminent domain power in furtherance of an economic development plan satisfied the Constitution's Fifth Amendment ''public use'' requirement despite the absence of any blight. Moreover, on June 27, 2005, the High Court issued two rulings regarding the public display of the Ten Commandments. Each opinion was backed by a different coalition of four, with Justice Breyer as the swing vote.

The only discernible rule seems to be that the Ten Commandments may be displayed outside a public courthouse, Van Orden v. Perry, but not inside (McCreary County v. American Civil Liberties Union) and may be displayed with other documents, but not alone. In Van Orden v. Perry, the Supreme Court permitted a display of the Ten Commandments to remain on the grounds outside the Texas State Capitol. However, in McCreary County v. ACLU, a bare majority of Supreme Court Justices ruled that two Kentucky counties violated the Establishment Clause by erecting displays of the Ten Commandments indoors for the purpose of advancing religion. While the multiple concurring and dissenting opinions in these cases serve to explain some of the confounding differences in outcomes, it would have been extraordinarily fruitful for the American public to watch the Justices as they grappled with these issues during oral arguments that, presumably, reveal much more of their deliberative processes than mere text.

Irrespective of ones view concerning the merits of these decisions, it is clear beyond cavil that they have a profound effect on the interplay between the government, on the one hand, and the individual on the other. So, it is with these watershed decisions in mind that I introduce legislation designed to make the Supreme Court less esoteric and more accessible to common men and women who are so clearly affected by its decisions.

When deciding issues of such great national import, the Supreme Court is rarely unanimous. In fact, a large number of seminal Supreme Court decisions have been reached through a vote of 5–4. Such a close margin reveals that these decisions are far from foregone conclusions distilled from the meaning of the Constitution and legal precedents. On the contrary, these major Supreme Court opinions embody critical decisions reached on the basis of the preferences and views of each individual justice. In a case that is decided by a vote of 5–4, an individual justice has the power by his or her vote to change the law of the land.

Some would argue that the Court has even played a significant role in deciding political contests as well. Who can forget the Court's dramatic decision in Bush v. Gore that enabled the country to move on from a bitterly fought presidential race. That decision, with its enormous repercussions for the Nation, cried out for greater public scrutiny of the process by which the Justices heard arguments and all but decided the fate of the 2000 presidential race.

Given the enormous significance of each vote cast by each Justice on the Supreme Court, televising the proceedings of the Supreme Court will allow sunlight to shine brightly on these proceedings and ensure greater public awareness and scrutiny.

In a democracy, the workings of the government at all levels should be open to public view. With respect to oral arguments, the more openness and the more real the opportunity for public observation the greater the understanding and trust. As the Supreme Court observed in the 1986 case of Press-Enterprise Co. v. Superior Court, ''People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing.''

It was in this spirit that the House of Representatives opened its deliberations to meaningful public observation by allowing C–SPAN to begin televising debates in the House chamber in 1979. The Senate followed the House's lead in 1986 by voting to allow television coverage of the Senate floor.

Beyond this general policy preference for openness, however, there is a strong argument that the Constitution requires that television cameras be permitted in the Supreme Court.

It is well established that the Constitution guarantees access to judicial proceedings to the press and the public. In 1980, the Supreme Court relied on this tradition when it held in Richmond Newspapers v. Virginia that the right of a public trial belongs not just to the accused, but to the public and the press as well. The Court noted that such openness has ''long been recognized as an indisputable attribute of an Anglo-American trial.''

Recognizing that in modern society most people cannot physically attend trials, the Court specifically addressed the need for access by members of the media: Instead of acquiring information about trials by first hand observation or by word of mouth from those who attended, people now acquire it chiefly through the print and electronic media. In a sense, this validates the media claim of acting as surrogates for the public. [Media presence] contributes to public understanding of the rule of law and to comprehension of the functioning of the entire criminal justice system.

To be sure, a strong argument can be made that forbidding television cameras in the court, while permitting access to print and other media, constitutes an impermissible discrimination against one type of media over another. In recent years, the Supreme Court and lower courts have repeatedly held that differential treatment of different media is impermissible under the First Amendment absent an overriding governmental interest. For example, in 1983 the Court invalidated discriminatory tax schemes imposed only upon certain types of media in Minneapolis Star & Tribune Co. v. Minnesota Commissioner of Revenue. In the 1977 case of ABC v. Cuomo, the Second Circuit rejected the contention by the two candidates for mayor of New York that they could exclude some members of the media from their campaign headquarters by providing access through invitation only. The Court wrote that: Once there is a public function, public comment, and participation by some of the media, the First Amendment requires equal access to all of the media or the rights of the First Amendment would no longer be tenable.

In the 1965 case of Estes v. Texas, the Supreme Court rejected the argument that the denial of television coverage of trials violates the equal protection clause. In the same opinion, the Court held that the presence of television cameras in the Court had violated a Texas defendant's right to due process. Subsequent opinions have cast serious doubt upon the continuing relevance of both prongs of the Estes opinion.

In its 1981 opinion in Chandler v. Florida, the court recognized that Estes must be read narrowly in light of the state of television technology at that time. The television coverage of Estes' 1962 trial required cumbersome equipment, numerous additional microphones, yards of new cables, distracting lighting, and numerous technicians present in the courtroom. In contrast, the court noted, television coverage in 1980 can be achieved through the presence of one or two discreetly placed cameras without making any perceptible change in the atmosphere of the courtroom. Accordingly, the Court held that, despite Estes, the presence of television cameras in a Florida trial was not a violation of the rights of the defendants in that case. By the same logic, the holding in Estes that exclusion of television cameras from the courts did not violate the equal protection clause must be revisited in light of the dramatically different nature of television coverage today.

Given the strength of these arguments, it is not surprising that over the last two decades there has been a rapidly growing acceptance of cameras in American courtrooms which has reached almost every court except for the Supreme Court itself. Ironically, it was the Chandler decision which helped spur the spread of television cameras in the courts. Shortly after Chandler, the American Bar Association revised its canons to permit judges to authorize televising civil and criminal proceedings in their courts.

Following the green lights provided by the Supreme Court and the ABA, nearly all the States have decided to permit electronic coverage of at least some portion of their judicial proceedings. In 1990, the Federal Judicial Conference authorized a three-year pilot program allowing television coverage of civil proceedings in six federal district courts and two federal circuit courts. The program began in July, 1991, and ran through December 31, 1994. The Federal Judicial Center monitored the program and issued a positive final evaluation. In particular, the Judicial Center concluded that: Overall, attitudes of judges toward electronic media coverage of civil proceedings were initially neutral and became more favorable after experience under the pilot program.

The Judicial Center also concluded that: Judges and attorneys who had experience with electronic media coverage under the program generally reported observing small or no effects of camera presence on participants in the proceedings, courtroom decorum, or the administration of justice.

Despite this positive evaluation, the Judicial Conference voted in September 1994, to end the experiment and not to extend the camera coverage to all courts. This decision was made in the aftermath of the initial burst of television coverage of O.J. Simpson's pretrial hearing. Some have argued that the decision was unduly influenced by this outside event. In March 1996, the Judicial Conference revisited the issue of television cameras in the federal courts and voted to permit each Federal court of appeals to ''decide for itself whether to permit the taking of photographs and radio and television coverage of appellate arguments.'' Since that time, two circuit courts have enacted rules permitting television coverage of their arguments. It is significant to note that these two circuits were the two circuits which participated in the federal experiment with television cameras a few years earlier. It seems that once judges have an experience with cameras in their courtroom, they no longer oppose the idea.

On September 6, 2000, the Senate Judiciary Committee's Subcommittee on Administrative Oversight and the Courts held a hearing titled ''Allowing Cameras and Electronic Media in the Courtroom.'' The primary focus of the hearing was Senate bill S. 721, legislation introduced by Senators GRASSLEY and SCHUMER that would give Federal judges the discretion to allow television coverage of court proceedings. One of the witnesses at the hearing, Judge Edward Becker, Chief Judge U.S. Court of Appeals for the Third Circuit, spoke in opposition to the legislation and the presence of television cameras in the courtroom. The remaining five witnesses, however, including a Federal judge, a State judge, a law professor and other legal experts, all testified in favor of the legislation. They argued that cameras in the courts would not disrupt proceedings but would provide the kind of accountability and access that is fundamental to our system of government.

In my judgment, Congress, with the concurrence of the President, or overriding his veto, has the authority to require the Supreme Court to televise its proceedings. Such a conclusion is not free from doubt and is highly likely to be tested with the Supreme Court, as usual, having the final word. As I see it, there is clearly no constitutional prohibition against such legislation.

Article 3 of the Constitution states that the judicial power of the United States shall be vested ''in one Supreme Court and such inferior Courts as the Congress may from time to time ordain and establish.'' While the Constitution specifically creates the Supreme Court, it left it to Congress to determine how the Court would operate. For example, it was Congress that fixed the number of justices on the Supreme Court at nine. Likewise, it was Congress that decided that any six of these justices are sufficient to constitute a quorum of the Court. It was Congress that decided that the term of the Court shall commence on the first Monday in October of each year, and it was Congress that determined the procedures to be followed whenever the Chief Justice is unable to perform the duties of his office.

Beyond such basic structural and operational matters, Congress also controls more substantive aspects of the Supreme Court. Most importantly, it is Congress that in effect determines the appellate jurisdiction of the Supreme Court. Although the Constitution itself sets out the appellate jurisdiction of the Court, it provides that such jurisdiction exist ''with such exceptions and under such regulations as the Congress shall make.'' In the early days of the Supreme Court, Chief Justice Marshall, writing for the Court in Durousseau v. United States, recognized that the power to make exceptions to the Court's jurisdiction is the equivalent of the power to grant jurisdiction, since exceptions can be ''implied from the intent manifested by the affirmative description [of jurisdiction].''

The Supreme Court recognized the power of Congress to control its appellate jurisdiction in a dramatic way in the famous 1868 case of Ex Parte McCardle. In this case, McCardle, a newspaper editor, was being held in custody by the military for trial on charges stemming from the publication of articles alleged to be libelous and incendiary. McCardle petitioned the Supreme Court for a writ of habeas corpus. The Court heard his case but, before it rendered its opinion, Congress repealed the statute that gave the Supreme Court jurisdiction to hear the habeas appeal. In light of this Congressional action, the Supreme Court felt compelled to dismiss the case for lack of jurisdiction.

Some objections have been raised to televised proceedings of the Supreme Court on the ground that it would subject justices to undue security risks. My own view is such concerns are vastly overstated. Well-known members of Congress, walk on a regular basis in public view in the Capitol complex. Other very well-known personalities, presidents, vice presidents, cabinet officers, all are on public view with even incumbent presidents exposed to risks as they mingle with the public. Such risks are minimal in my view given the relatively minor exposure that Supreme Court justices would undertake through television appearances.

As I explained earlier, the Supreme Court could, of course, permit television through its own rule but has decided not to do so. Congress should be circumspect and even hesitant to impose a rule mandating the televising of Supreme Court proceedings and should do so only in the face of compelling public policy reasons. The Supreme Court has such a dominant role in key decision-making functions that their proceedings ought to be better known to the public; and, in the absence of Court rule, public policy would be best served by enactment of legislation requiring the televising of Supreme Court proceedings.

This legislation embodies sound policy and will prove valuable to the public. I urge my colleagues to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objective, the bill was ordered to be printed in the RECORD, as follows:

S. 1768

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

SECTION 1. AMENDMENT TO TITLE 28.

(a) IN GENERAL.—Chapter 45 of title 28, United States Code, is amended by inserting at the end the following:

''§ 678. Televising Supreme Court proceedings

''The Supreme Court shall permit television coverage of all open sessions of the Court unless the Court decides, by a vote of the majority of justices, that allowing such coverage in a particular case would constitute a violation of the due process rights of 1 or more of the parties before the Court.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 45 of title 28, United States Code, is amended by inserting at the end the following:

''678. Televising Supreme Court proceedings.''.

Mr. LEAHY. I am pleased to join Senator SPECTER as a cosponsor of this bill that would require the televising of Supreme Court proceedings.

In the Senate Judiciary Committee, we recently conducted open hearings on the nomination of John G. Roberts to be Chief Justice of the United States. We raised this matter with Judge Roberts. I have long believed in sunshine in government. Our democracy works best when our citizens have access to their government. I have supported efforts to make all three branches of our Federal Government more accessible. Except for rare closed sessions, the proceedings Congress and its committees are open to the public and carried live on cable television and radio. In addition, Members and committees are using the Internet and Web sites to make their work available to their constituencies and the general public.

The work of executive branch agencies is subject to public scrutiny through the Freedom of Information Act, among other mechanisms. Despite the current administration's dramatic shift toward excessive secrecy, the Freedom of Information Act remains a cornerstone of democracy. It establishes the right of Americans to know what their government is doing—or not doing. As President Johnson said in

1966, when he signed the Freedom of Information Act into law:

This legislation springs from one of our most essential principles: A democracy works best when the people have all the information the security of the Nation permits.

Although most judicial proceedings are open to those who can travel to the courthouse and wait in line, emerging technology allows the opportunity to invite the rest of the country into the courtroom. All 50 States have allowed some form of audio or video coverage of court proceedings, but Federal courts lag behind. Previously, I have cosponsored several bills with Senator GRASSLEY to address this, including the Sunshine in the Courtroom Act of 2005.

The legislation I am cosponsoring today extends the tradition of openness to the Nation's highest Court and can help Americans be better informed about the important decisions that are made there and how they are made. This bill requires the Supreme Court to permit television coverage of all open sessions of the Court. At the same time, it protects the parties from violation of their due process rights by permitting a majority of the Justices to suspend this coverage for a particular session if due process requires.

In 1994, the Judicial Conference concluded that the time was not ripe to permit cameras in the Federal courts, and rejected a recommendation of the Court Administration and Case Management Committee to authorize the photographing, recording, and broadcasting of civil proceedings in Federal trial and appellate courts.

The Supreme Court is often the final arbiter of constitutional questions and represents the ultimate protection of individual rights and liberties. Allowing the public greater access to its public proceedings will allow Americans to evaluate for themselves the quality of justice in this country, and deepen their understanding of the work that goes on in the Court.

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. ALEXANDER, Mr. DODD, Mr. BURR, Ms. MIKULSKI, Mr. DEWINE, and Mrs. CLINTON):

S. 1769. A bill to provide relief to individuals and businesses affected by Hurricane Katrina related to healthcare and health insurance coverage, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to introduce a bill to provide solutions to the health care challenges wrought by Hurricane Katrina. As chairman of the Committee on Health, Education, Labor, and Pensions, I am proud to be joined by my friend Senator KENNEDY, the ranking minority member of the committee, in introducing this legislation. I am also honored that several fellow committee members are sponsoring this bill as well, including Senators ALEXANDER, DODD, BURR, MIKULSKI, DEWINE, and CLINTON. This bill is truly committee product in the best sense of the term.

We are introducing this legislation in response to the information that has been shared with us from a variety of sources. Some of the provisions of this bill were added as a result of the testimony that we received during a roundtable discussion before the Committee on Health, Education, Labor and Pensions. Others spring from the suggestions that were forwarded to us or were posted on our committee's Web site. Others came from our discussions with local, State and Federal officials who shared their firsthand knowledge and experience with us. Still others were added as a result of our visit to the area. This legislation will not accomplish everything that must be done, but it will provide another valuable step in the effort to provide a comprehensive package to address the needs of those whose lives were forever changed by the wrath of Hurricane Katrina.

Just a few days ago, several of my colleagues and I traveled to the New Orleans area to see the damage that was done by the storm for ourselves. I don't think any of us were fully prepared for what we saw. As startling as the images were that we had seen in the paper and on television, they didn't fully portray what had happened and the reality that confronted us on the ground. The devastation that the storm had brought to the lives of those who lived there was readily apparent. It was a tragedy that was even worse than any of us had thought was possible. It will not be easy to use the limited resources we have at our disposal to meet the almost unlimited need, but we are all determined to try.

Nationwide, there are people from the gulf coast region spread throughout the country who have had to rely on the kindness and goodwill of people they have never met before. Wyoming and so many other States have welcomed these people with open arms and open hearts. Seeing so many Americans, from all walks of life, respond as they have and reach out to other Americans in need, gives me a clearer picture than I have ever seen before of what is right with America. It is a scene that gives me confidence that we will be able to rebuild what was lost and breathe new life into the communities that were devastated by the storm.

Now, here in Congress, we will continue to do our part, and one of the most important things we can do is to assure mothers and fathers all over the country that the health care needs of their family will be met, that they will not have to go without or navigate through a complex bureaucracy to get the care they need, and that their Federal Government has the necessary authority to respond to this crisis.

The Public Health and Health Insurance Emergency Response Act of 2005 will strengthen and improve America's ability to address the ongoing public health and mental health needs faced by the hundreds of thousands of people displaced by Hurricane Katrina. It will also help those evacuees and their employers continue to afford their health insurance premiums as they put their lives and their businesses back together.

As we know, the public health emergency created by Hurricane Katrina will take months to resolve. That means we need to cut whatever Federal redtape might stand in the way of a long-term public health recovery effort.

In this legislation, therefore, we strengthen the authority of the Secretary of Health and Human Services to waive laws that hinder the fullest possible response to a major disaster like Hurricane Katrina. These laws include vaccination eligibility laws and requirements related to State and local matching funds, as well laws that limit the Secretary's flexibility in designating health professional shortage areas.

To ensure a comprehensive public health response in the months ahead, this critical legislation facilitates long-term Federal-State cooperation and coordination in a public health emergency, and assists with expanding and strengthening the health care safety net by increasing access to and resources for sites at which people displaced by Hurricane Katrina can receive primary and preventive care. It ensures immediate availability of mental health funding in the event of major disasters by directing special emergency mental health funding to affected areas, and directs additional outreach and assistance to individuals with disabilities, including funds to States during an emergency to ensure that individuals with disabilities have access to advocacy and support services.

Additionally, the bill we are introducing today clarifies appropriate protocols for emergency response by requiring additional data collection and analysis for use in this and future responses to major disasters.

Finally, my committee has also worked diligently to create a solution to another crisis created by Hurricane Katrina. This devastating natural disaster has changed lives and disrupted businesses all across the gulf coast of Louisiana, Mississippi, and Alabama. Families and employers are going to need our help getting the basic necessities of food, water, shelter, and clothing while they decide how to move forward and rebuild their lives and livelihoods.

Hundreds of thousands of the gulf coast evacuees have health insurance that they purchased on their own or that their employer provided and funded. Many of these people are now without a job, and many of these businesses are hanging on as they clean up and wait for their customers to return to the region. Some people have lost almost everything they owned, and now

they are in danger of losing their health insurance if they can't pay their premiums.

Congress can and will help them. The bill we are introducing will provide short-term premium relief to people displaced by Hurricane Katrina so they can keep their private health insurance.

Under this bill, the Department of Health and Human Services, in consultation with State insurance commissioners, will administer a program to provide 3 months of health insurance premium relief to individuals who have purchased their own policies, and to small businesses and their employees. Such individuals and businesses will be eligible if, as of the date of the hurricane, they held health insurance in counties federally designated major disaster areas and their ability to pay premiums has been severely disrupted. Enrollment in the program will occur automatically upon either nonpayment of premiums or if communication to an insurer or policyholder indicates distress.

To facilitate swift enrollment, there is no prospective application process. However, the program does provide for a retrospective randomized audit process, whereby HHS may retroactively seek collection of premium assistance if such assistance was made in error.

To complete this short-term protection for those individuals and businesses affected by Hurricane Katrina, the bill will prohibit insurers from canceling policies or raising rates during the 3-month emergency period.

The Public Health and Health Insurance Emergency Response Act of 2005 will provide immediate health insurance premium relief for individuals and businesses affected by Hurricane Katrina, and provide the Federal Government the authority it needs to respond effectively to the public health needs of people displaced by this terrible disaster.

After we pass this bill, our work in response to Hurricane Katrina is not over. This is our emergency response. In the upcoming months, working with Senator BURR, the chairman of our Subcommittee on Bioterrorism and Public Health Preparedness, and my other committee colleagues, I want to examine fully our preparedness and response capabilities as they relate to public health, mental health, and health care. I also want to focus on how best to rebuild the critical health care and public health infrastructure that was destroyed as a result of Hurricane Katrina.

These are some of the long-term challenges we must tackle. But in the short term, we must address the immediate needs and emergent challenges imposed by Hurricane Katrina. I urge my colleagues to join me as sponsors of the Public Health and Health Insurance Emergency Response Act of 2005, and I look forward to seeing the Senate pass this bill in the very near future.

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. 1769

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 ''Public Health and Health Insurance Emergency Response Act of 2005''.

TITLE I—CLARIFICATION OF A PUBLIC HEALTH EMERGENCY

SEC. 101. MODIFICATION TO THE DEFINITION OF PUBLIC HEALTH EMERGENCY.

Section 319 of the Public Health Service Act (42 U.S.C. 247d) is amended—

(1) in subsection (a), by inserting before the last sentence, the following: ''Any determination under this section shall specify the geographic area with respect to which such determination applies.''; and

(2) by striking subsection (d) and inserting the following:

''(d) STATUTORY WAIVER.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, if the Secretary declares a public health emergency pursuant to subsection (a), the Secretary may waive the following statutory requirements:

''(A) REPORTING OR ADMINISTRATIVE REQUIREMENTS.—In any case in which the Secretary determines that, wholly or partially as a result of a public health emergency that has been determined pursuant to subsection (a), individuals or public or private entities are unable to comply with deadlines for the submission to the Secretary of data, reports, or other materials, or for the completion of other administrative tasks required under any law administered by the Secretary, the Secretary may grant such extensions of such deadlines as the circumstances may reasonably require, and may waive, wholly or partially, any sanctions otherwise applicable to such failure to comply.

''(B) VACCINATIONS.—With respect to section 317 of this Act and section 1928 of the Social Security Act, the Secretary may waive requirements related to the eligibility of adults and children for participation in the program for those in an area with respect to which the Secretary has declared a public health emergency during the period of such declaration.

''(C) EXTENSION OF AVAILABILITY OF FUNDS.—If, as a result of a public health emergency declared pursuant to subsection (a), the Secretary determines that the Secretary is unable to obligate funds for a particular fiscal year, such funds shall remain available for an additional 180 days.

''(D) MATCHING REQUIREMENTS.—In any case in which the Secretary determines that an entity in an area with respect to which the Secretary has declared a public health emergency pursuant to subsection (a) is unable to provide funds required as a condition of Federal matching under any provision of the Public Health Service Act, the Secretary may grant a waiver of such funding requirement for the fiscal years covered by such emergency declaration. To the extent that additional amounts have been appropriated for programs that have received a waiver under this subparagraph as a result of Hurricane Katrina, the Secretary may make such additional amounts available to entities on a pro rata basis.

''(E) MOBILIZING RESOURCES TO PROVIDE ACCESS.—If the Secretary declares a public health emergency pursuant to subsection (a) with respect to an area, the Secretary may deem such area as a health professional shortage area (as defined under section 332(a)), a medically underserved population (as defined under section 330(b)(3)), or a medically underserved area or community during the period of such declaration.

''(e) LICENSING AND LIABILITY PROVISIONS.—If the Secretary declares a public health emergency pursuant to subsection (a) with respect to an area, the Secretary may waive the application of licensing requirements applicable to physicians and other health care professionals who are volunteering to provide medical services (within their scope of practice) within such area as part of a coordinated emergency response if such physicians or health care professionals have equivalent licensing in good standing in another State and are not affirmatively excluded from practice in that State or in any State a part of which is included in the designated public health emergency area. A physician or other health care professional described in section 2811(d)(1) shall be covered by the provisions of section 2811(d)(2), including with respect to liability.

''(f) FDA WAIVER AUTHORITY.—If the Secretary declares a public health emergency pursuant to subsection (a) with respect to an area, the Secretary may—

''(1) waive the requirements in the second sentence of section 304(h)(1)(B) of the Federal Food, Drug, and Cosmetic Act;

''(2) waive the requirement of section 304(h)(2) of such Act that limits the administrative detention of foods to not more than 30 days; and

''(3) waive the requirement of section 304(h)(4)(A) of such Act relating to the timing of an opportunity for an informal hearing upon the appeal of a detention order.

Under paragraph (1), the Secretary may not waive the requirements of sections 1.392 or 1.393 of title 21, Code of Federal Regulations, or any successor regulations thereto.

''(g) REPORT.—Not later than 2 days after granting any waiver under subsection (d), (e), or (f), the Secretary shall notify the appropriate committees of Congress of such action. The Secretary shall publish in the Federal Register a notice of such waiver in a timely manner. Such notification shall include, if applicable—

''(1) the specific provisions of law to be waived or modified;

''(2) the rationale for such waiver or modification;

''(3) the geographic area in which the waiver or modification will apply; and

''(4) the period of time, not to exceed the period of the emergency, for which the waiver or modification will be in effect.

''(h) AUTHORITY FOR RETROACTIVE APPLICATION.—A waiver or modification described in subsections (d), (e), and (f), at the discretion of the Secretary, may be made retroactive to the beginning of the emergency period or any subsequent date in such period as specified by the Secretary.''.

SEC. 102. SENSE OF CONGRESS CONCERNING THE HURRICANE KATRINA-RELATED PUBLIC HEALTH EMERGENCY.

It is the sense of Congress that—

(1) with respect to the public health emergency declared under section 319 of the Public Health Service Act (42 U.S.C. 247d) resulting from Hurricane Katrina, the Secretary of Health and Human Services, in coordination with other Federal entities (including the Federal Emergency Management Association, the Department of Defense, the Department of Veterans' Affairs, Environmental Protection Agency, and the National Disaster Medical System), State and local governments, and public and private sector entities, where appropriate, should ensure the following:

(A) grants and funding should be provided to address ongoing emergency responses and recovery;

(B) the provision of health services including medical specialty services, health-related social services including protection and advocacy services, other appropriate human services, and appropriate auxiliary services to respond to the needs of the survivors of the public health emergency;

(C) clinicians deployed as part of the emergency response efforts who are licensed and certified within their respective State and in good standing within their State should be afforded appropriate liability protections;

(D) clinicians deployed as part of the emergency response who are licensed or otherwise certified in their respective State and in good standing within their State should not need to fulfill additional licensure or certification requirements in areas declared to be part of a public health emergency;

(E) individuals within the public health emergency areas should be able to access quality mental health and substance abuse services including services to reduce and identify individuals at risk of suicide and post-traumatic stress disorder and provide appropriate interventions;

(F) environmental teams should be deployed to provide assessments and environmental controls for areas within the public health emergency;

(G) social services, including protection and advocacy services and access to domestic violence shelters, should be extended to those within the public health emergency areas;

(H) communication resources should be available to those displaced by the hurricane including access to 2-1-1 call centers;

(I) support services including supports, equipment, supplies, medications, and other types of assistance (such as those provided through the Developmental Disabilities Assistance and Bill of Rights Act of 2000) should be available to vulnerable populations including the elderly and individuals with disabilities;

(J) real time electronic surveillance, diagnosis, and treatment of epidemic, re-emerging, and emerging diseases, including a functioning diagnostic laboratory, should be provided for those dislocated as a result of Hurricane Katrina and first-responders;

(K) funding should be provided to help healthcare facilities, medical research facilities, community health centers, and other essential public health and health care infrastructure components to assist them in the ongoing response efforts, to clean up their facilities, or to rebuild;

(L) coordination and minimizing the duplication of Federal, State, and local response and recovery efforts;

(M) funding should be provided to ensure that the Strategic National Stockpile is able to provide and appropriately deploy the necessary drugs, vaccines, and other biological products, medical devices, and other supplies needed to address acute exacerbations of chronic illness as well as acute injuries and illness resulting from Hurricane Katrina;

(N) funding should be provided to the Centers for Disease Control and Prevention and the National Institutes of Health to pay for needed communications, including public service announcements on radio and television, to provide for additional personnel, and to provide needed health and safety training and resources to affected workers and employers;

(O) none of the funds provided by the Secretary of Health and Human Services in response to Hurricane Katrina should made available to entities that have been indicted for abandoning patients during the disaster period; and

(P) the Department of Health and Human Services should conduct an effective ongoing program to monitor the health of survivors of Hurricane Katrina and of workers and volunteers involved in rescue, response, and rebuilding efforts due to Hurricane Katrina, and that such a program should include screening for health conditions (including mental health conditions) and appropriate referrals; and

(2) the current public health emergency declared by Secretary Leavitt relating to Hurricane Katrina under such section 319 should be extended beyond 90 days.

TITLE II—HEALTHCARE RESPONSE

SEC. 201. ASSISTANCE TO STATES IN A PUBLIC HEALTH EMERGENCY.

Section 311(c)(2) of the Public Health Service Act (42 U.S.C. 243(c)(2)) is amended—

(1) by striking ''(2) The'' and inserting the following:

''(2)(A) Except as provided in subparagraph (B), the''; and

(2) by adding at the end the following:

''(B) If the Secretary declares a public health emergency under section 319, the 6 month period described in the first sentence of subparagraph (A) may be extended for a period of not to exceed 18 months with respect to assistance to geographic areas that are the subject of such declaration.''.

SEC. 202. STRENGTHENING THE HEALTHCARE SAFETY NET.

Notwithstanding any other provision of law, the Secretary of Health and Human Services may temporarily provide (for the period for which a determination of public health emergency is in effect under section 319 of the Public Health Service Act (42 U.S.C. 247d)) with respect to Hurricane Katrina that any health center or facility providing primary and preventive care that—

(1) is located in an area to which such determination applies, and

(2) treats individuals displaced by Hurricane Katrina;

shall receive reimbursement for such treatment from Federal health programs at the same rate at which a Federally qualified health center (as defined in section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1596d(l)(2)(B))) would receive such reimbursement and shall be eligible to receive funds under section 330 of the Public Health Service Act (42 U.S.C. 245b) with respect to services furnished to individuals displaced by Hurricane Katrina if additional funds are made available under such section for Hurricane Katrina response efforts.

SEC. 203. MENTAL HEALTH NEEDS.

(a) ENSURING FUNDING FOR MENTAL HEALTH IN TIMES OF NATIONAL CRISIS.—Section 501(m) of the Public Health Service Act (42 U.S.C. 290aa(m)) is amended by adding at the end the following:

''(4) EXISTING FUNDING.—For purposes of carrying out this subsection, amounts appropriated under this title for emergency response, as provided for in this section, for fiscal years 2005 and 2006 shall remain available until expended or until a public health emergency as declared by the Secretary no longer exists.''.

(b) STRENGTHENING ACCESS TO MENTAL HEALTH SERVICES IN AN EMERGENCY.—Section 520F of the Public Health Service Act (42 U.S.C. 290bb-37) is amended—

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

''(b) HEALTH CENTER.—In this section, the term 'health center' has the meaning given such term in section 330, and includes community health centers and community mental health centers.'';

(2) in subsection (c), by adding at the end the following: ''With respect to a declaration of a public health emergency under section 319, the Secretary shall, in awarding such grants, ensure that priority is given to States and localities that are most affected by such emergency.'';

(3) in subsection (e)(2)—

(A) in clause (i), by striking ''individuals'' and all that follows through the semicolon and inserting ''individuals, including children, who may be in need of emergency mental health services, including individuals at risk of developing a mental illness, including Post Traumatic Stress Disorder;''; and

(B) in clause (iii), by inserting ''or at risk of developing'' after ''individual with''; and

(4) in subsection (g), by striking ''2003'' and inserting ''2006''.

SEC. 204. ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES.

(a) ASSESSMENT AND RESPONSE.—

(1) DEFINITIONS.—

(A) EMERGENCY SHELTER.—The term ''emergency shelter'' means an emergency shelter for persons described in subparagraph (C)(ii).

(B) INDIVIDUAL WITH A DISABILITY.—The term ''individual with a disability'' has the meaning given the term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(C) INDIVIDUAL AFFECTED BY HURRICANE KATRINA.—The term ''individual with a disability affected by Hurricane Katrina'' means a person who is—

(i) an individual with a disability, or a family member of an individual with a disability; and

(ii) a person who resided on August 22, 2005, in an area in which the President has declared that a major disaster exists, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina.

(2) ASSISTANCE.—An entity that receives financial assistance under title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.) may use a portion of such financial assistance to—

(A) determine the location and status of individuals affected by Hurricane Katrina, who are transferred from emergency shelters to long-term care facilities (including nursing homes and group homes), intermediate care facilities for individuals with mental retardation, hospitals, correctional institutions, and other similar locations; and

(B) assess and respond to the needs of individuals affected by Hurricane Katrina to ensure that the individuals receive necessary services, supports, and other types of assistance.

(b) OVERSIGHT AND DISASTER ASSISTANCE.—Subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.) is amended by inserting after section 144 the following:

''SEC. 144A. OVERSIGHT AND DISASTER ASSISTANCE.

''(a) DEFINITIONS.—In this section:

''(1) EMERGENCY SHELTER.—The term 'emergency shelter' means an emergency shelter for persons described in paragraph (3)(B).

''(2) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' has the meaning given the term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

''(3) INDIVIDUAL AFFECTED BY A MAJOR DISASTER.—The term 'individual affected by a major disaster' means a person who is—

''(A) an individual with a disability; and

''(B) a person who resided in an area in which the Secretary has declared a public health emergency under section 319 of the Public Health Service Act, 7 days before the declaration.

''(4) PUBLIC HEALTH EMERGENCY.—The term 'public health emergency' means a public health emergency as designated under section 319 of the Public Health Service Act.

''(b) OVERSIGHT.—

''(1) GRANTS.—

''(A) IN GENERAL.—In a case in which the Secretary of Health and Human Services has declared that a public health emergency exists for a geographic area, and as a result individuals affected by a major disaster are placed in an emergency shelter in a State, the Secretary may make a grant to the system for that State.

''(B) USE OF FUNDS.—A system that receives a grant under subparagraph (A) shall use the funds made available through the grant to—

''(i) establish a registry to identify and maintain information about such individuals who are in such emergency shelter;

''(ii) track the transfers of such individuals from such emergency shelter to community and non-community settings; and

''(iii) provide oversight at such emergency shelter to assure that such individuals are receiving necessary services, supports, and other types of assistance.

''(2) COORDINATION.—In carrying out activities under paragraph (1), the system shall coordinate the activities with the Under Secretary for Emergency Preparedness and Response in the Department of Homeland Security, and with any nonprofit agency (such as the American Red Cross) providing assistance through an emergency shelter described in paragraph (1).

''(c) ACCESS.—As soon as practicable after the Secretary of Health and Human Services has declared a public health emergency for an area, and as a result individuals affected by the emergency are placed in an emergency shelter in a State, the Commissioner of the Administration on Developmental Disabilities shall notify each emergency shelter in the State receiving such individuals that staff of the system for the State shall have authority to enter the shelter, and shall have access to the individuals affected by the emergency residing in that shelter, to provide information related to services, supports, and other types of assistance for, and to protect the human, service, and legal rights of, individuals affected by the emergency residing in that shelter.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (b) $2,000,000 for fiscal year 2006 and such sums as may be necessary for fiscal year 2007.''.

SEC. 205. LIABILITY AND LICENSURE AWARENESS PROMOTION FOR HEALTH VOLUNTEERS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall utilize the Internet and other appropriate means to disseminate to the public information on health professional liability coverage and licensure requirements for intermittent disaster response personnel (as described in section 2811(d)(1) of the Public Health Service Act (42 U.S.C. 300hh–11(d)(1))) in areas in which a public health emergency have been declared under section 319 of such Act (42 U.S.C. 247d).

(b) TYPE OF INFORMATION.—The information to be provided under subsection (a) shall, in the case of a State where health professional licensure requirements have been waived, include—

(1) whether and how intermittent disaster response personnel may be able to receive certain liability protections as described in section 2811(d)(2) of the Public Health Service Act (42 U.S.C. 300hh–(d)(2)), or under applicable provisions of State law;

(2) the possible limitations of such coverage and protections; and

(3) other information needed to enable health professionals to make an informed decision about providing volunteer health services.

TITLE III—RESEARCH AND REPORTS

SEC. 301. MONITORING THE HEALTHCARE, MENTAL HEALTH, AND PUBLIC HEALTH RESPONSE.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through a public service non-profit research and analysis firm, shall provide for an immediate and independent review (through the immediate collection of data and conduct of analyses) of the lessons learned from the Federal, State and local public health, mental health, and medical care planning, preparedness, and response to Hurricane Katrina.

(b) PURPOSE.—The purpose of the study under subsection (a) is to collect available relevant data, through site visits, reviews of medical and epidemiological records, interviews with individuals residing in an area in which a public health emergency has been declared under section 319 of the Public Health Service Act as a result of Hurricane Katrina, and interviews with Federal, State, and local public health, mental health services, and medical officials. Such interviews shall be conducted in a manner that, to the extent practicable, does not interfere with the delivery of patient care and services.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Emergency and Commerce of the House of Representatives, a report concerning the lessons learned (as described in subsection (a)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out this section.

SEC. 302. REPORT ON REGULATORY REQUIREMENTS AND FUNDING FORMULAS.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the specific regulatory requirements and funding formulas under the Public Health Service Act (42 U.S.C. 201 et seq.) that would assist the Secretary in responding to a public health emergency (as declared under section 319 of such Act (42 U.S.C. 247d)).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 303. DEPARTMENT OF HEALTH AND HUMAN SERVICES INSPECTOR GENERAL AUDIT AND REPORT.

(a) IN GENERAL.—The Inspector General of the Department of Health and Human Services (referred to in this section as the ''Inspector General'') shall conduct an audit and investigation of each program carried out by the Department of Health and Human Services that includes response and recovery activities related to Hurricane Katrina.

(b) WEEKLY REPORT.—Not less frequently than once a week, the Inspector General shall provide a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives listing the audits and investigations initiated pursuant to subsection (a).

(c) STATUS REPORT.—Not later than 6 months after the date of enactment of this section, and biannually thereafter until the audits and investigations described in subsection (a) are complete, the Inspector General shall report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives on the full status of the activities of the Inspector General under this section.

(d) COOPERATIVE VENTURES.—In carrying out this section, the Inspector General is encouraged to enter into cooperative ventures with Inspectors General of other Federal agencies.

TITLE IV—HEALTH INSURANCE COVERAGE

SEC. 401. TEMPORARY EMERGENCY HEALTH COVERAGE ASSISTANCE FOR BUSINESS AND INDIVIDUALS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), in consultation with the insurance commissioners of those States contained in whole or in part in the Hurricane Katrina disaster area, shall establish a program to provide emergency health coverage continuation relief through the provision of direct payments of health insurance premiums or continuation assistance on behalf of eligible businesses and their employees and purchasers of individual health insurance coverage.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE INDIVIDUALS.—The term ''eligible individual'' means an individual (and the family dependents of such individual as may be covered under the health insurance coverage in which such individual is enrolled)—

(A) who is a citizen, national, or qualified alien as defined in section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b));

(B) whose permanent residence as of August 29, 2005 was located in a Hurricane Katrina disaster area;

(C) who was covered under individual (non-group) health insurance coverage, including a policy operated pursuant to a qualified high risk pool (as defined in section 2744 of the Public Health Service Act (42 U.S.C. 300gg-44)), on August 29, 2005; and

(D) whose ability to continue such coverage was severely impaired as a result of hurricane-related disruption in a Hurricane Katrina disaster area.

(2) ELIGIBLE BUSINESSES.—The term ''eligible business'' means a corporation, sole proprietorship, or partnership that employs not more than 50 employees and that—

(A) operated as of August 29, 2005 in a Hurricane Katrina disaster area;

(B) offered coverage under a group health plan (as defined in section 733(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(a)(1))) on August 29, 2005 to employees in a Hurricane Katrina disaster area; and

(C) had its ability to continue coverage under such plan severely impaired as a result of disruption of the sponsor's business activity in the Hurricane Katrina disaster area.

(3) CONTINUATION ASSISTANCE.—The term ''continuation assistance'' means, in the case of an eligible business that offers health insurance coverage under a self-insured arrangement, assistance in paying administrative services fees, claims costs, stop-loss premiums, and any amounts required to be paid by employees to participate in the arrangement.

(4) HURRICANE KATRINA DISASTER AREA.—The term ''Hurricane Katrina disaster area'' means a parish in the State of Louisiana, a county in the State of Mississippi, or a county in the State of Alabama, for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) as a result of Hurricane Katrina and which the President has determined, before September 11, 2005, warrants both individual and public assistance from the Federal Government under such Act.

(c) HEALTH COVERAGE CONTINUATION RELIEF.—

(1) IN GENERAL.—The Secretary shall design and implement the program under subsection (a) in a manner that enables eligible individuals and eligible businesses to be eligible for direct premium reimbursement or continuation assistance to be paid by the Secretary on behalf of such individual or business directly to the health insurance issuer or administrative services provider involved. In the case of an eligible business, premium reimbursement shall include the premium shares of both the employer and employees, as applicable.

(2) LIMITATION.—Subject to paragraph (3), in no case shall the value of the assistance provided under the program under this section, with respect to an individual or business, exceed 100 percent of the applicable premium for coverage or continuation assistance for the period of coverage involved, including, with respect to employer coverage, the employer and employees' share of premiums, if applicable.

(3) ENROLLMENT.—

(A) IN GENERAL.—The Secretary shall establish an expedited process for the enrollment of eligible individuals and eligible businesses in the program under this section.

(B) DUTY OF SECRETARY UPON RECEIPT OF NOTICE.—The Secretary, upon receipt of a notice under subsection (f)(2), shall enroll the eligible individual or eligible business involved in the program under this section.

(C) DUTY OF ISSUER.—A group health plan, or health insurance insurer with respect to such a plan, shall make a reasonable effort to notify an eligible individual or eligible business—

(i) of the automatic enrollment of such individual or business in the program under subparagraph (B);

(ii) that, if it is later determined that the means of support of such individual, or the ability of such business to continue health insurance coverage, was not severely disrupted (as determined subject to a randomized retrospective audit process), such individual or business may be required at a later date to repay the program for the amount of premiums or continuation assistance paid on its behalf; and

(iii) that such individual or business may elect to decline enrollment, or cancel enrollment, in the program by notifying the health insurance issuer or administrative service provider involved.

(d) RETROSPECTIVE AUDIT AUTHORITY.—

(1) IN GENERAL.—The Secretary shall provide for the application of a randomized retrospective auditing process to the program under this section by a date that is not earlier than November 1, 2005.

(2) REPAYMENT OF FUNDS.—If the Secretary determines, pursuant to the audit process under paragraph (1), that an individual or business that was enrolled in the program under this section did not meet the disruption or other eligibility requirements provided for in paragraph (1) or (2) of subsection (b), the Secretary shall seek the repayment of funds paid on behalf of such individual or business. Such repayments shall be made with no interest or late penalty to accrue prior to the commencement of a repayment period which shall begin not earlier than the date that is 3 months after the date on which a determination and notice of non-eligibility is provided.

(3) NO DOUBLE PAYMENTS.—The Secretary shall take appropriate actions to ensure that health insurance issuers do not retain double payments in instances where businesses or individuals pay premiums for any period for which payments have already been made under the program under this section.

(e) EMERGENCY PERIOD.—Payments under the program under this section shall be made only for premiums due during the period beginning on August 29, 2005 and expiring 3 months after such date. Prior to the expiration of such period, the Secretary may make recommendations to Congress regarding any reasonably determined need to extend such emergency period.

(f) NON-CANCELLATION OF HEALTH INSURANCE COVERAGE.—

(1) IN GENERAL.—During the 3-month emergency period described in subsection (e), health insurance issuers that accept payments under the program under this section shall be prohibited from canceling or terminating health insurance coverage or, in the case of administrative services providers, refusing to process claims under a self-insured arrangement. Such health insurance issuers and administrative service providers shall be prohibited during such period from increasing any amounts due pursuant to such coverage or arrangements that were not previously scheduled pursuant to a contract prior to August 29, 2005.

(2) NOTIFICATION.—To be eligible to receive payments under ths program under this section, a health insurance issuer or administrative services provider shall notify the Secretary—

(A) not earlier than 31 days following the nonpayment of a scheduled premium payment from an individual or business policyholder in a Hurricane Katrina disaster area, of the fact of such nonpayment (or nonreimbursement of claims under a self-insured arrangement); or

(B) following a communication to the health insurance insurer or administrative service provider by an individual or business reasonably indicating eligibility for assistance under such program, of the fact of such communication.

(g) EXPEDITED RULEMAKING.—The Secretary shall utilize expedited rulemaking procedures to carry out this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000,000 for fiscal year 2006.

SEC. 402. AUTHORITY TO POSTPONE CERTAIN DEADLINES RELATED TO INDIVIDUAL HEALTH COVERAGE BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTION.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended by adding at the end the following:

"SEC. 2793. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTION.

''In the case of a plan offered through the individual market, or any health insurance issuer, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to 1 year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as a result of disregarding any period by reason of the preceding sentence.''.

(b) APPLICATION OF AMENDMENT.—The Secretary of Health and Human Services shall implement the amendment made by subsection (a) in the same manner in which the Secretary of Labor implements section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) with respect to group health plans.

TITLE V—EMERGENCY DESIGNATION

SEC. 501. EMERGENCY DESIGNATION.

Any amount provided under this Act is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

Mr. KENNEDY. Mr. President, today, I join Senator ENZI in introducing a relief bill that will bring aid to hundreds of thousands of people affected by Hurricane Katrina. I commend Chairman ENZI and our colleagues on the Committee for moving so quickly to meet the many urgent health needs of the victims.

We have all seen the images of despair of those who felt so abandoned by their government in their time of need. We have also seen hope reborn in the faces of families reunited after surviving this massive catastrophe. We have seen great heroism too, not only in the spectacular images of rescues by helicopter, but in the quiet courage of neighbors helping neighbors survive the heavy winds and rising waters.

It's been three weeks since Hurricane Katrina brought havoc to the Gulf Coast. Every day, we have a clearer picture of physical destruction of beloved American communities, and a deeper understanding of what our fellow citizens have lost. Survivors have begun the slow and difficult process of rebuilding their lives. Most have , only the clothing they wore as they tried to cope with the hurricane.

Another picture is also emerging—a report card filled with failing grades for government at every level in the preparations and response for such an emergency. The natural disaster was compounded many fold by the inadequate response, despite the bravery and sacrifice of relief workers, rescue personnel, and the hurricane survivors themselves.

With new destruction in Texas and Louisiana from Hurricane Rita, we had little time to learn from these past lessons. Already, we responded sooner by insisting on the evacuation of people in flood-prone areas and shipping food and supplies quickly into the hard hit areas. Unfortunately, this means that many Hurricane Katrina evacuees had to relocate again. They halted their individual rebuilding processes, and once again, now find themselves in unfamiliar surroundings dealing with anguish, fear, loss, and uncertainty.

The recent evacuations reveal additional lessons to be learned. Massive gridlock on evacuation routes, gasoline shortages, and overwhelmed airports are just the beginning of many challenges that lie ahead. We need to learn faster and learn better, so that we can prepare more effectively before disasters happen, react more effectively as they take place, and respond more effectively in the aftermath.

I commend Chairman ENZI for convening two roundtable discussions that provided impressive expertise about what can be done immediately to protect the health of those affected by the hurricane and help them begin to rebuild their lives.

Our committee listened carefully and prepared a relief package to address the immediate health needs of the survivors for the next 90 days. We have a long road ahead of us, but this bill is an important start. As the aftermath of Hurricanes Katrina and Rita continues to unfold, we will learn of additional needs, and be reminded again and again that we have much more to do to improve the nation's ability to respond to disasters, whether man-made or natural.

In this legislation, we are focusing on what we can do to immediately remove the perennial red tape and make sure that each and every survivor has access to good health care. For those with health insurance, the bill provides temporary assistance on premiums, so that individuals and small businesses affected by the hurricanes maintain their existing coverage. I'm hopeful we can work together to extend similar help to persons in larger firms who need temporary assistance.

We also authorize the Secretary of Health and Human Services to extend insurance deadlines, so that hurricane survivors have time to make important decisions about their coverage.

In preventing disease outbreaks and epidemics, time is of the essence. The bill removes barriers to existing public health programs, such as by allowing the Vaccines for Children Program to contribute to the vaccination campaign already under way, in order to prevent outbreaks of disease in responders and in persons relying on the same shelter.

It is especially urgent to monitor the survivors and responders, in order to identify both the short-term and the long-term risks they face. I will continue to work with my colleagues to authorize the Secretary of Health and Human Services to work closely with other agencies, including the Environmental Protection Agency, to begin monitoring health outcomes and exposure to environmental toxins, and to develop a registry of people screened, so that we can identify long-term consequences.

As we focus on preventing and treating physical illness, we must not ignore the emotional challenges ahead for both survivors and responders. Thousands are facing the silent battle of coping with bereavement and catastrophe. All are at risk for post-traumatic stress disorder. Today, we are reauthorizing the emergency mental health services program of the Substance Abuse and Mental Health Services Administration's and giving priority to awarding its grants to states and areas most affected by the hurricanes.

This measure is only the beginning. It ends restrictions on existing Federal programs, so that we can help immediately with the relief efforts and expand access to health care for the survivors.

I'm encouraged by how well our colleagues have worked together to rapidly develop this relief package, and I urge the Majority Leader and the full Senate to make passing this legislation a priority and bring help to the thousands affected by the hurricane.

I'm also optimistic that our bipartisan cooperation here will lead to further relief measures that fully address the longer term health needs of the victims, and prevent the kind of mistakes that happened in connection with Katrina and Rita from happening again.

Congress has a major responsibility to help the survivors of this tragic ordeal rebuild their communities and their lives. Today, we make a clear commitment to the survivors. Our promise to them should not simply be to turn back the clock a month or two—it should be to fulfill the true promise of the American Dream by committing ourselves to better health, better education and better job opportunities for survivors, and for all Americans as well.

By Mr. OBAMA (for himself, Mrs. MURRAY, Mr. CORZINE, Mr. KERRY, and Mr. LEVIN):

S. 1770. A bill to amend the Internal Revenue Code of 1986 to provide for advance payment of the earned income tax credit and the child tax credit for 2005 in order to provide needed funds to victims of Hurricane Katrina and to stimulate local economies; to the Committee on Finance.

Mr. OBAMA. Mr. President, I rise to speak in support of the ''Hurricane Katrina Fast-Track Refunds for Working Families Act of 2005,'' a bill I am introducing with Senators MURRAY, CORZINE, KERRY, and LEVIN to accelerate the Earned Income Tax Credit and the Child Tax Credit for some of the neediest victims of Hurricane Katrina.

A few weeks ago, I visited some of the victims who had been evacuated to the Reliant Center in Houston. These families have nothing left. Imagine having nothing left. All their belongings have been destroyed or washed away and most of their jobs have simply vanished.

We have done a lot of good work here in the Senate so far to bring tax relief and emergency support to these families. And many of us are hard at work now developing strategies for the long-term rebuilding of the Gulf Coast in such a way that doesn't re-create the poverty and inequality of the past but instead builds a more hopeful region with greater opportunity for all of its residents.

But there is more we can do quickly to help affected families reestablish and resettle their lives and also to stimulate their local economies. In the past we have accelerated tax refunds with the goal of economic stimulus. In 2001, Congress directed the IRS to provide an ''advance tax rebate'' of 2001 taxes, and, in 2003, Congress accelerated the Child Credit. Now, with the dual goals of economic stimulus and support for needy Americans, we should do it again.

Fast-tracking refunds will put money into the hands of parents that they can use for food, clothing, housing, transportation, medical services—whatever they need. How they spend the money is up to them. But it's up to us to make sure they get it as soon as possible. It's up to us to make sure the necessary outreach, systems, and delivery mechanisms are in place.

And that's what this legislation does. It directs the Secretary of the Treasury to refund or credit eligible taxpayers from the affected region as rapidly as possible and to take the steps necessary to get the funds into the hands of eligible recipients. Companion legislation has been introduced by Reps. EMANUEL, MELANCON, TAYLOR, and LEWIS in the House of Representatives.

I urge my colleagues in the Senate to join me in supporting this bill now so we can quickly bring relief and support to those who have nothing left. The Earned Income Tax Credit and Child Tax Credit are designed to support working families with children. Let's fast track this support to help these families get back on their feet and help their communities rebuild themselves even stronger than before.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1771. A bill to express the sense of Congress and to improve reporting with respect to the safety of workers in the response and recovery activities related to Hurricane Katrina, and for other purposes; read the first time.

Mr. ENZI. Mr. President, I rise today to introduce The Katrina Worker Safety and Filing Flexibility Act of 2005.

In the wake of Hurricane Katrina we face a nearly unprecedented recovery and reconstruction process along our Gulf Coast. This is a challenge that we will meet. We are a people that always act with strength and purposefulness when circumstances such as this demand.

While we undertake this massive effort, we must bear in mind the safety of the men and women who will be on the front lines of recovery and reconstruction. These individuals will face numerous and uncommon worksite hazards; and ones with which they will have little training and experience.

To address this situation, the Occupational Safety and Health Administration has deployed its safety and health professionals to the affected areas to provide necessary technical assistance. Their efforts in this regard are being guided by the Worker Health and Safety Annex contained in the National Response Plan as adopted by the Department of Homeland Security.

I am pleased today to be introducing this legislation with my distinguished colleague and ranking member of the Committee, Senator KENNEDY. He and I share a commitment to protecting the health and safety of all workers, including those engaged in the hurricane recovery effort.

The legislation we are introducing today not only encourages the implementation of all aspects of the Worker Safety Annex, it encourages OSHA to play a central role in communicating the nature of these unique worksite hazards, and in cooperating with State, local and tribal governments, as well as other Federal agencies to enhance the safety of recovery and reconstruction personnel. In addition, the legislation grants the Secretary of Labor authority to extend the deadline for filing certain forms with the Department until March of 2006 in light of the difficulties in meeting any earlier deadlines as a result of the hurricane.

We believe the bill is an important step in providing the necessary protection to recovery and reconstruction workers; and providing the necessary degree of flexibility with regard to required Federal filings.

Mr. KENNEDY. Mr. President, today Senator ENZI and I are introducing legislation to protect the workers who are laboring to clean up the Gulf Coast after its recent disasters.

The heroism of America's workers in the wake of Hurricane Katrina is unparalleled. As they did in response to our national disaster on September 11, thousands of men and women have been working around the clock to find and rescue families, to provide them with food and shelter, and to evacuate them from the area. In the coming days thousands more will be on the ground reestablishing communications, cleaning up debris, restoring services, and rebuilding infrastructure. They are now facing additional challenges because of the new damage and flooding from Hurricane Rita, but they continue to make progress in cleaning and rebuilding New Orleans and the entire disaster area.

This work is critical, but it is also dangerous. Many of these tasks pose significant safety and health threats: conditions in New Orleans are of particular concern, where the widespread flooding has led to widespread biological and chemical contamination. We learn more each day about the oil spills, the Superfund sites, and exposure to E. coli that these workers are facing. It is imperative that workers and volunteers be protected from these serious hazards.

That is why our legislation includes language to protect the health and safety of workers. It urges OSHA and other health and safety agencies to follow the Worker Health and Safety Annex protections of our National Response Plan. This includes keeping track of workers who are being exposed, coordinating health and safety training for workers and volunteers, and monitoring the hazards that workers and volunteers are facing. It also authorizes funds to be spent for additional personnel, enforcement of health and safety standards, critical safety information for workers and employers, and safety and health training. I hope that as Congress continues to allocate money for disaster relief that we also provide money to protect our workers and volunteers.

We need to track how our efforts are working, and so we have provided for Congressional oversight. OSHA will be required to brief the HELP Committee in six months, and provide a written report within nine months, so we can see what progress has been made and what still needs to be done. We have also mandated oversight by the Executive Branch. The Inspector General of the Department of Labor will audit and investigate the Department's efforts to implement the protections established in this bill, and will report back to both Houses of Congress on the success of these response and recovery efforts.

Finally, the bill also provides temporary relief to many companies, unions and individuals who are required to meet financial and other reporting obligations during the next few months, but cannot satisfy these obligations due to record destruction and other problems associated with Katrina.

By Mr. INHOFE (for himself, Mr. DEMINT, Ms. MURKOWSKI, Mr. VOINOVICH, Mr. ISAKSON, Mr. THUNE, and Mr. BOND):

S. 1772. A bill to streamline the refinery permitting process, and for other purposes; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, by design, politicians are largely a reactive bunch—our constituents voted us in to our offices to represent their interests, and when they are unhappy we too are unhappy. One issue that certainly makes all constituents unhappy or even angry is high fuel prices. Therefore, policymakers at all levels of government have been struggling with ways to address high prices—some have advocated for repealing fuel taxes, the Administration reacted in many critically important and helpful ways such as releasing oil from the Strategic Petroleum Reserve. After Hurricane Katrina disabled a large portion of our refining capacity and Rita threatened an additional 27.5 percent, several members have talked about the need to build new refineries.

In May 2004—Before the hurricanes, and before EPACT 2005 (The Energy Policy Act of 2005), the Environment & Public Works Committee, which I chair, considered the challenges facing the refining industry. At that hearing, we learned how the industry has been struggling to balance the public's increasing demand for cheap transportation fuels while also meeting legal and regulatory requirements to produce cleaner fuels.

Federal Reserve Chairman Alan Greenspan stated in a May 2005 speech that, ''the status of world refining capacity has become worrisome. Of special concern is the need to add adequate coking and desulphurization capacity to convert the average gravity and sulphur content of much of the world's crude oil to the lighter and sweeter needs of product markets, which are increasingly dominated by transportation fuels that must meet ever-more stringent environmental requirements.''

Make no mistake, significant investments have been made to achieving environmental objectives—however, investments into increasing capacity have been inadequate to meet demand, and no new domestic refinery has been built since 1976.

A critical hurdle to constructing anything these days, especially refineries, is overcoming the ''Not-In-My-Backyard'' or NIMBY interests. The President recognized the need to build new refineries while overcoming local opposition when he recommended that policymakers consider constructing on BRAC sites.

Building upon what we learned in our hearing while balancing potential local opposition to refineries and answering the President and the public's call, I rise today to introduce the Gas Petroleum Refiner Improvement and Community Empowerment Act or Gas PRICE Act. This Gas PRICE Act seeks to address fuels challenges in the short, mid and long-term range in several key ways.

First, the bill encourages communities who are about to lose jobs as a result of BRAC to consider building refineries on those properties. The legislation directs the Economic Development Administration to provide additional resources to communities considering new refineries on those sites. Refineries are not just a good source of high paying jobs, but they are an area of national interest so those communities acting in that interest should be benefited.

Second, States have a significant if not dominant role in permitting existing or new refineries. Yet, States face particular technical and financial constraints when faced with these extremely complex facilities. Therefore, the Gas PRICE Act establishes a Governor opt-in program that requires the Administrator to coordinate and concurrently review all permits with the relevant State agencies to permit refineries. This program does not waive or modify any environmental law, but seeks to assist States and consumers by providing greater certainty in the permitting process.

Third, the Gas PRICE Act answers the call for increasing efficiency. Today's recent reports show that natural gas prices this winter are projected to increase 75 percent. This bill requires the EPA's Natural Gas Star Program to provide grants to identify and use methane emission reduction technologies.

Further, it requires the Administrator to conduct a series of methane emission reduction workshops with the Interstate Oil and Gas Compact Commission to officials in the oil and gas producing states.

Fourth, the supply disruptions caused by hurricane Katrina required

EPA to issue fuel waivers to allow the use of conventional fuel in special or boutique fuel areas. The bill provides that States acting pursuant to an emergency will be held harmless under the law. Additionally, some members have called for the reduction of the total number of fuels used to increase the overall fungibility. In principle, I agree with my colleagues, however the special or boutique fuel blends address environmental and health needs of each region. Therefore, I have proposed a more cautious approach that will allow for the reduction of fuel blends pursuant to the environmental and consumer preferences in each State.

Fifth, policymakers, businesses, and the public have struggled to balance increased demand for transportation fuels against preferences for ever more stringent environmental quality all while preserving low prices at the pump. Most ''solutions'' have focused on technologies that may not be realized for decades or other measures that would hurt U.S. manufacturers.

Fischer-Tropsche fuels are the likely answer. F–T fuels use petroleum coke, a waste product from the refining process, or domestic coal to produce ultra-clean, virtually sulfur free diesel or jet fuel, and are price competitive at $38/barrel of oil.

The Gas PRICE Act requires EPA to establish a demonstration project to use Fischer-Tropsche, diesel and jet, as an emission control strategy; and authorizes EPA to issue up to two loan guarantees to demonstrate commercial scale F—T fuels production facilities using domestic petroleum coke or coal.

Of course, Congress should have taken many actions in anticipation of the current refining capacity crunch over last several years. Yet, as I indicated earlier, elected officials in large measure react to the will of their constituents. The good news is that we are not too late to make sure that the economy-wide stifling high prices are only temporary.

The Gas PRICE Act that we are introducing today can go a long way in addressing the nation's short, mid, and long-term fuels challenges. Furthermore, it does so by empowering local communities and States, establishing greater regulatory certainty without changing any environmental law, improving efficiency, and establishing a future for the use of ultra clean transportation fuels derived from abundant domestic resources.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1773. A bill to resolve certain Native American claims in New Mexico, and for other purposes; to the Committee on Indian Affairs.

Mr. DOMENICI. Mr. President, I rise today with my colleague, Senator BINGAMAN, to introduce a historic piece of legislation. I call this bill historic because its purpose is to implement the final settlement to be entered into under the Indian Claims Commission Act of 1946. I understand that passage of this legislation will complete the final chapter in the history of that act.

The Indian Claims Commission Act of 1946 was enacted to allow the Indian Claims Commission to hear certain tribal claims filed between 1946 and 1951. Nationally, the act has involved more than 600 claims by tribes. With the passage of this legislation, we will complete the process begun in almost sixty years ago.

The specific claim being resolved by the Pueblo de San Ildefonso Claims Settlement Act of 2005 involves the San Ildefonso Pueblo's 7,700-acre ancestral land claim against the Federal Government. This bill marks the successful culmination of a long-awaited settlement agreement between the San Ildefonso Pueblo and the United States and involved much hard work by all of the parties involved. The introduction of this legislation marks an important day for the San Ildefonso Pueblo and others in my home state of New Mexico. This is a necessary bill, and I hope that my colleagues will act quickly to resolve the final claim filed under the Indian Claims Commission Act of 1946.

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. 1773

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 ''Pueblo de San Ildefonso Claims Settlement Act of 2005''.

SEC. 2. DEFINITIONS AND PURPOSES.

(a) DEFINITIONS.—In this Act:

(1) ADMINISTRATIVE ACCESS.—The term ''administrative access'' means the unrestricted use of land and interests in land for ingress and egress by an agency of the United States (including a permittee, contractor, agent, or assignee of the United States) in order to carry out an activity authorized by law or regulation, or otherwise in furtherance of the management of Federally-owned land and resources.

(2) COUNTY.—The term ''County'' means the incorporated county of Los Alamos, New Mexico.

(3) LOS ALAMOS AGREEMENT.—The term ''Los Alamos Agreement'' means the agreement among the County, the Pueblo, the Department of Agriculture Forest Service, and the Bureau of Indian Affairs dated January, 22, 2004.

(4) LOS ALAMOS TOWNSITE LAND.—''Los Alamos Townsite Land'' means the land identified as Attachment B (dated December 12, 2003) to the Los Alamos Agreement.

(5) NORTHERN TIER LAND.—''Northern Tier Land'' means the land comprising approximately 739.71 acres and identified as ''Northern Tier Lands'' in Appendix B (dated August 3, 2004) to the Settlement Agreement.

(6) PENDING LITIGATION.—The term ''Pending Litigation'' means the case styled Pueblo of San Ildefonso v. United States, Docket Number 354, originally filed with the Indian Claims Commission and pending in the United States Court of Federal Claims on the date of enactment of this Act.

(7) PUEBLO.—The term ''Pueblo'' means the Pueblo de San Ildefonso, a Federally recognized Indian tribe (also known as the ''Pueblo of San Ildefonso'').

(8) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the agreement entitled ''Settlement Agreement between the United States and the Pueblo de San Ildefonso to Resolve All of the Pueblo's Land Title and Trespass Claims'' and dated June 7, 2005.

(9) SETTLEMENT AREA LAND.—The term ''Settlement Area Land'' means the National Forest System land located within the Santa Fe National Forest, as described in Appendix B to the Settlement Agreement, that is available for purchase by the Pueblo under section 9(a) of the Settlement Agreement.

(10) SETTLEMENT FUND.—The term ''Settlement Fund'' means the Pueblo de San Ildefonso Land Claims Settlement Fund established by section 6.

(11) SISK ACT.—The term ''Sisk Act'' means Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a).

(12) WATER SYSTEM LAND.—The term ''Water System Land'' means the Federally-owned land located within the Santa Fe National Forest to be conveyed to the County under the Los Alamos Agreement.

(b) PURPOSES.—The purposes of this Act are—

(1) to finally dispose, as set forth in sections 4 and 5, of all rights, claims, or demands that the Pueblo has asserted or could have asserted against the United States with respect to any and all claims in the Pending Litigation;

(2) to extinguish claims based on aboriginal title, Indian title, or recognized title, or any other title claims under section 5;

(3) to authorize the Pueblo to acquire the Settlement Area Land, and to authorize the Secretary of Agriculture to convey the Water System Land, the Northern Tier Land, and the Los Alamos Townsite Land for market value consideration, and for such consideration to be paid to the Secretary of Agriculture for the acquisition of replacement National Forest land elsewhere in New Mexico;

(4) to provide that the Settlement Area Land acquired by the Pueblo shall be held by the Secretary of the Interior in trust for the benefit of the Pueblo;

(5) to facilitate government-to-government relations between the United States and the Pueblo regarding cooperation in the management of certain land administered by the National Park Service and the Bureau of Land Management as described in sections 7 and 8 of the Settlement Agreement;

(6) to ratify the Settlement Agreement; and,

(7) to ratify the Los Alamos Agreement.

SEC. 3. RATIFICATION OF AGREEMENTS.

(a) RATIFICATION.—The Settlement Agreement and Los Alamos Agreement are ratified under Federal law, and the parties to those agreements are authorized to carry out the provisions of the agreements.

(b) CORRECTIONS AND MODIFICATIONS.—The respective parties to the Settlement Agreement and the Los Alamos Agreement are authorized, by mutual agreement, to correct errors in any legal description or maps, and to make minor modifications to those agreements.

SEC. 4. JUDGMENT AND DISMISSAL OF LITIGATION.

(a) DISMISSAL.—Not later than 90 days after the date of enactment of this Act, the United States and the Pueblo shall execute and file with the United States Court of Federal Claims in the Pending Litigation a motion for entry of final judgment in accordance with section 5 of the Settlement Agreement.

(b) COMPENSATION.—Upon entry of the final judgment under subsection (a), $6,900,000

shall be paid into the Settlement Fund as compensation to the Pueblo in accordance with section 1304 of title 31, United States Code.

SEC. 5. RESOLUTION OF CLAIMS.

(a) EXTINGUISHMENTS.—Except as provided in subsection (b), in consideration of the benefits of the Settlement Agreement, and in recognition of the agreement of the Pueblo to the Settlement Agreement, all claims of the Pueblo against the United States (including any claim against an agency, officer, or instrumentality of the United States) are relinquished and extinguished, including—

(1) any claim to land based on aboriginal title, Indian title, or recognized title;

(2) any claim for damages or other judicial relief or for administrative remedies that were brought, or that were knowable and could have been brought, on or before the date of the Settlement Agreement;

(3) any claim relating to—

(A) any federally-administered land, including National Park System land, National Forest System land, Public land administered by the Bureau of Land Management, the Settlement Area Land, the Water System Land, the Northern Tier Land, and the Los Alamos Townsite Land; and

(B) any land owned by, or held for the benefit of, any Indian tribe other than the Pueblo; and

(4) any claim that was, or that could have been, asserted in the Pending Litigation.

(b) EXCEPTIONS.—Nothing in this Act or the Settlement Agreement shall in any way extinguish or otherwise impair—

(1) the title of record of the Pueblo to land held by or for the benefit of the Pueblo, as identified in Appendix D to the Settlement Agreement, on or before the date of enactment of this Act; and,

(2) the title of the Pueblo to the Pueblo de San Ildefonso Grant, including, as identified in Appendix D to the Settlement Agreement—

(A) the title found by the United States District Court for the District of New Mexico in the case styled United States v. Apodoca (Number 2031, equity: December 5, 1930) not to have been extinguished; and

(B) title to any land that has been reacquired by the Pueblo pursuant to the Act entitled ''An Act to quiet the title to lands within Pueblo Indian land grants, and for other purposes'', approved June 7, 1924 (43 Stat. 636, chapter 331);

(3) the water rights of the Pueblo appurtenant to the land described in paragraphs (1) and (2); and

(4) any rights of the Pueblo or a member of the Pueblo under Federal law relating to religious or cultural access to, and use of, Federal land.

(c) PREVIOUS EXTINGUISHMENTS UNIMPAIRED.—Nothing in this Act affects any prior extinguishments of rights or claims of the Pueblo which may have occurred by operation of law.

(d) BOUNDARIES AND TITLE UNAFFECTED.—

(1) BOUNDARIES.—Nothing in this Act affects the location of the boundaries of the Pueblo de San Ildefonso Grant.

(2) RIGHTS, TITLE, AND INTEREST.—Nothing in this Act affects, ratifies, or confirms the right, title, or interest of the Pueblo in the land held by, or for the benefit of, the Pueblo, including the land described in Appendix D of the Settlement Agreement.

SEC. 6. SETTLEMENT FUND.

(a) ESTABLISHMENT.—There is established in the Treasury a fund to be known as the ''Pueblo de San Ildefonso Land Claims Settlement Fund''.

(b) CONDITIONS.—Monies deposited in the Settlement Fund shall be subject to the following conditions:

(1) MAINTENANCE AND INVESTMENT.—The Settlement Fund shall be maintained and invested by the Secretary of the Interior pursuant to the Act of June 24, 1938 (25 U.S.C. 162a).

(2) USE OF FUNDS.—Subject to paragraph (3), monies deposited into the Settlement Fund shall be expended by the Pueblo—

(A) to acquire the Federally administered Settlement Area Land;

(B) to pay for the acquisition of the Water System Land, as provided in the Los Alamos Agreement; and

(C) at the option of the Pueblo, to acquire other land.

(3) EFFECT OF WITHDRAWAL.—If the Pueblo withdraws monies from the Settlement Fund, neither the Secretary of the Interior nor the Secretary of the Treasury shall retain any oversight over, or liability for, the accounting, disbursement, or investment of the withdrawn funds.

(4) PER CAPITA DISTRIBUTION.—No portion of the funds in the Settlement Fund may be paid to Pueblo members on a per capita basis.

(5) ACQUISITION OF LAND.—The acquisition of land with funds from the Settlement Fund shall be on a willing-seller, willing-buyer basis, and no eminent domain authority may be exercised for purposes of acquiring land for the benefit of the Pueblo under this Act.

(6) EFFECT OF OTHER LAWS.—The Act of October 19, 1973 (Public Law 93–134; 87 Stat. 466) and section 203 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4023) shall not apply to the Settlement Fund.

SEC. 7. LAND OWNERSHIP ADJUSTMENTS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of Agriculture may sell the Settlement Area Land, Water System Land, and Los Alamos Townsite Land, on such terms and conditions as are agreed upon and described in the Settlement Agreement and the Los Alamos Agreement, including reservations for administrative access and other access as shown on Appendix B of the Settlement Agreement.

(2) EFFECT OF CLAIMS AND CAUSE OF ACTION.—Consideration for any land authorized for sale by the Secretary of Agriculture shall not be offset or reduced by any claim or cause of action by any party to whom the land is conveyed.

(b) CONSIDERATION.—The consideration to be paid for the Federal land authorized for sale in subsection (a) shall be—

(1) for the Settlement Area Land and Water System Land, the consideration agreed upon in the Settlement Agreement; and

(2) for the Los Alamos Townsite Land, the current market value based on an appraisal approved by the Forest Service as being in conformity with the latest edition of the Uniform Appraisal Standards for Federal Land Acquisitions.

(c) DISPOSITION OF RECEIPTS.—

(1) IN GENERAL.—All monies received by the Secretary of Agriculture from the sale of National Forest System land as authorized by this Act, including receipts from the Northern Tier Land, shall be deposited into the fund established in the Treasury of the United States pursuant to the Sisk Act and shall be available, without further appropriation, authorization, or administrative apportionment for the purchase of land by the Secretary of Agriculture for National Forest System purposes in the State of New Mexico.

(2) USE OF FUNDS.—Funds deposited in a Sisk Act fund pursuant to this Act shall not be subject to transfer or reprogramming for wildlands fire management or any other emergency purposes, or used to reimburse any other account.

(3) ACQUISITIONS OF LAND.—In expending funds to exercise its rights under the Settlement Agreement and the Los Alamos Agreement with respect to the acquisition of the Settlement Area Land, the County's acquisitions of the Water System Land, and the Northern Tier Land (if the Pueblo exercises an option to purchase the Northern Tier Land as provided in section 12(b)(2)(A), the Pueblo shall use only funds in the Settlement Fund and shall not augment those funds from any other source.

(d) VALID EXISTING RIGHTS AND RESERVATIONS.—

(1) IN GENERAL.—The Settlement Area Land acquired by the Pueblo shall be subject to all valid existing rights on the date of enactment of this Act, including rights of administrative access.

(2) WATER RIGHTS.—No water rights shall be conveyed by the United States.

(3) SPECIAL USE AUTHORIZATION.—

(A) IN GENERAL.—Nothing in this Act shall affect the validity of any special use authorization issued by the Forest Service within the Settlement Area Land, except that such authorizations shall not be renewed upon expiration.

(B) REASONABLE ACCESS.—For access to valid occupancies within the Settlement Area Land, the Pueblo and the Secretary of the Interior shall afford rights of reasonable access commensurate with that provided by the Secretary of Agriculture on or before the date of enactment of this Act.

(4) WATER SYSTEM LAND AND LOS ALAMOS TOWNSITE LAND.—The Water System Land and Los Alamos Townsite Land acquired by the County shall be subject to—

(A) all valid existing rights; and

(B) the rights reserved by the United States under the Los Alamos Agreement.

(5) PRIVATE LANDOWNERS.—

(A) IN GENERAL.—Upon acquisition by the Pueblo of the Settlement Area Land, the Secretary of the Interior, acting on behalf of the Pueblo and the United States, shall execute easements in accordance with any right reserved by the United States for the benefit of private landowners owning property that requires the use of Forest Development Road 416 (as in existence on the date of enactment of this Act) and other roads that may be necessary to provide legal access into the property of the landowners, as the property is used on the date of this Act.

(B) MAINTENANCE OF ROADS.—Neither the Pueblo nor the United States shall be required to maintain roads for the benefit of private landowners.

(C) EASEMENTS.—Easements shall be granted, without consideration, to private landowners only upon application of such landowners to the Secretary.

(e) FOREST DEVELOPMENT ROADS.—

(1) UNITED STATES RIGHT TO USE.—Subject to any right-of-way to use, cross, and recross a road, the United States shall reserve and have free and unrestricted rights to use, operate, maintain, and reconstruct (at the same level of development, as in existence on the date of the Settlement Agreement), those sections of Forest Development Roads 57, 442, 416, 416v, 445 and 445ca referenced in Appendix B of the Settlement Agreement for any and all public and administrative access and other Federal governmental purposes, including access by Federal employees, their agents, contractors, and assigns (including those holding Forest Service permits).

(2) CERTAIN ROADS.—Notwithstanding paragraph (1), the United States—

(A) may improve Forest Development Road 416v beyond the existing condition of that road to a high clearance standard road (level 2); and

(B) shall have unrestricted administrative access and non-motorized public trail access

to the portion of Forest Development Road 442 depicted in Appendix B to the Settlement Agreement.

(f) PRIVATE MINING OPERATIONS.—

(1) COPAR PUMICE MINE.—The United States and the Pueblo shall allow the COPAR Pumice Mine to continue to operate as provided in the Contract For The Sale Of Mineral Materials dated May 4, 1994, and for COPAR to use portions of Forest Development Roads 57, 442, 416, and other designated roads within the area described in the contract, for the period of the contract and thereafter for a period necessary to reclaim the site.

(2) CONTINUING JURISDICTION.—

(A) ADMINISTRATION.—Continuing jurisdiction of the United States over the contract for the sale of mineral materials shall be administered by the Secretary of the Interior.

(B) EXPIRATION OF CONTRACT.—Upon expiration of the contract described in subparagraph (A), jurisdiction over reclamation shall be assumed by the Secretary of the Interior.

(3) EFFECT ON EXISTING RIGHTS.—Nothing in this Act limits or enhances the rights of COPAR under the Contract For The Sale Of Mineral Materials dated May 4, 1994.

SEC. 8. CONVEYANCES.

(a) AUTHORIZATION.—

(1) CONSIDERATION FROM PUEBLO.—Upon receipt of the consideration from the Pueblo for the Settlement Area Land and the Water System Land, the Secretary of Agriculture shall execute and deliver—

(A) to the Pueblo, a quitclaim deed to the Settlement Area Land; and

(B) to the County, a quitclaim deed to the Water System Land, reserving—

(i) a contingent remainder in the United States in trust for the benefit of the Pueblo in accordance with the Los Alamos Agreement; and

(ii) a right of access for the United States for the Pueblo for ceremonial and other cultural purposes.

(2) CONSIDERATION FROM COUNTY.—Upon receipt of the consideration from the County for all or a portion of the Los Alamos Townsite Land, the Secretary of Agriculture shall execute and deliver to the County a quitclaim deed to all or portions of such land, as appropriate.

(3) EXECUTION.—An easement or deed of conveyance by the Secretary of Agriculture under this Act shall be executed by the Director of Lands and Minerals, Forest Service, Southwestern Region, Department of Agriculture.

(b) AUTHORIZATION FOR PUEBLO TO CONVEY IN TRUST.—Upon receipt by the Pueblo of the quitclaim deed to the Settlement Land under subsection (a)(1), the Pueblo may quitclaim the Settlement Land to the United States, in trust for the Pueblo.

(c) ADEQUACY OF CONVEYANCE INSTRUMENTS.—Notwithstanding the status of the Federal land as public domain or acquired land, no instrument of conveyance other than a quitclaim deed shall be required to convey the Settlement Area Land, the Water System Land, the Northern Tier Land, or the Los Alamos Townsite Land under this Act.

(d) SURVEYS.—The Secretary of Agriculture is authorized to perform and approve any required cadastral survey.

(e) CONTRIBUTIONS.—Notwithstanding section 3302 of title 31, United States Code, or any other provision of law, the Secretary of Agriculture may accept and use contributions of cash or services from the Pueblo, other governmental entities, or other persons—

(1) to perform and complete required cadastral surveys for the Settlement Area Land, the Water System Land, the Northern Tier Land, or the Los Alamos Townsite Land, as described in the Settlement Agreement or the Los Alamos Agreement; and

(2) to carry out any other project or activity under—

(A) this Act;

(B) the Settlement Agreement; or

(C) the Los Alamos Agreement.

SEC. 9. TRUST STATUS AND NATIONAL FOREST BOUNDARIES.

(a) OPERATION OF LAW.—Without any additional administrative action by the Secretary of Agriculture or the Secretary of the Interior—

(1) on recording the quitclaim deed or deeds from the Pueblo to the United States in trust for the Pueblo under section 8(b) in the Land Titles and Records Office, Southwest Region, Bureau of Indian Affairs—

(A) the Settlement Area Land shall be held in trust by the United States for the benefit of the Pueblo; and

(B) the boundaries of the Santa Fe National Forest shall be deemed to be modified to exclude from the National Forest System the Settlement Area Land; and

(2) on recording the quitclaim deed or deeds from the Secretary of Agriculture to the County of the Water System Land in the county land records, the boundaries of the Santa Fe National Forest shall be deemed to be modified to exclude from the National Forest System the Water System Land.

(b) FUTURE INTERESTS.—If fee title to the Water System Land vests in the Pueblo by conveyance or operation of law, the Water System Land shall be deemed to be held in trust by the United States for the benefit of the Pueblo, without further administrative procedures or environmental or other analyses.

(c) NONINTERCOURSE ACT.—Any land conveyed to the Secretary of the Interior in trust for the Pueblo or any other tribe in accordance with this Act shall be—

(1) subject to the Act of June 30, 1834 (25 U.S.C. 177); and

(2) treated as reservation land.

SEC. 10. INTERIM MANAGEMENT.

Subject to valid existing rights, prior to the conveyance under section 9, the Secretary of Agriculture, with respect to the Settlement Area Land, the Water System Land, the Northern Tier Land, and the Los Alamos Townsite Land—

(1) shall not encumber or dispose of the land by sale, exchange, or special use authorization, in such a manner as to substantially reduce the market value of the land;

(2) shall take any action that the Secretary determines to be necessary or desirable—

(A) to protect the land from fire, disease, or insect infestation; or

(B) to protect lives or property; and

(3) may, in consultation with the Pueblo or the County, as appropriate, authorize a special use of the Settlement Area Land, not to exceed 1 year in duration.

SEC. 11. WITHDRAWAL.

Subject to valid existing rights, the land referenced in the notices of withdrawal of land in New Mexico (67 Fed. Reg. 7193; 68 Fed. Reg. 75628) is withdrawn from all location, entry, and patent under the public land laws and mining and mineral leasing laws of the United States, including geothermal leasing laws.

SEC. 12. CONVEYANCE OF THE NORTHERN TIER LAND.

(a) CONVEYANCE AUTHORIZATION.—

(1) IN GENERAL.—Subject to valid existing rights, including reservations in the United States and any right under this section, the Secretary of Agriculture shall sell the Northern Tier Land on such terms and conditions as the Secretary may prescribe as being in the public interest and in accordance with this section.

(2) EFFECT OF PARAGRAPH.—The authorization under paragraph (1) is solely for the purpose of consolidating Federal and non-Federal land to increase management efficiency and is not in settlement or compromise of any claim of title by any Pueblo, Indian tribe, or other entity.

(b) RIGHTS OF REFUSAL.—

(1) PUEBLO OF SANTA CLARA.—

(A) IN GENERAL.—In consideration for an easement under subsection (e)(2), the Pueblo of Santa Clara shall have an exclusive option to purchase the Northern Tier Land for the period beginning on the date of enactment of this Act and ending 90 days thereafter.

(B) RESOLUTION.—Within the period prescribed in subparagraph (A), the Pueblo of Santa Clara may exercise its option to acquire the Northern Tier Land by delivering to the Regional Director of Lands and Minerals, Forest Service, Southwestern Region, Department of Agriculture, a resolution of the Santa Clara Tribal Council expressing the unqualified intent of the Pueblo of Santa Clara to purchase the land at the offered price.

(C) FAILURE TO ACT.—If the Pueblo of Santa Clara does not exercise its option to purchase the Northern Tier Land within the 90-day period under subparagraph (A), or fails to close on the purchase of such land within 1 year of the date on which the option to purchase was exercised, the Secretary of Agriculture shall offer the Northern Tier Land for sale to the Pueblo.

(2) OFFER TO PUEBLO.—

(A) IN GENERAL.—Not later than 90 days after receiving a written offer from the Secretary of Agriculture under paragraph (1)(C), the Pueblo may exercise its option to acquire the Northern Tier Land by delivering to the Regional Director of Lands and Minerals, Forest Service, Southwestern Region, a resolution of the Pueblo Tribal Council expressing the unqualified intent of the Pueblo to purchase the land at the offered price.

(B) FAILURE OF PUEBLO TO ACT.—If the Pueblo fails to exercise its option to purchase the Northern Tier Land within 90 days after receiving an offer from the Secretary of Agriculture, or fails to close on the purchase of such land within 1 year of the date on which the option to purchase was exercised under subparagraph (A), the Secretary of Agriculture may sell or exchange the land to any third party in such manner and on such terms and conditions as the Secretary determines to be in the public interest, including by a competitive process.

(3) EXTENSION OF TIME PERIOD.—The Secretary of Agriculture may extend the time period for closing beyond the 1 year prescribed in subsection (b), if the Secretary determines that additional time is required to meet the administrative processing requirements of the Federal Government, or for other reasons beyond the control of either party.

(c) TERMS AND CONDITIONS OF SALE.—

(1) PURCHASE PRICE.—Subject to valid existing rights and reservations, the purchase price for the Northern Tier Land sold to the Pueblo of Santa Clara or the Pueblo under subsection (b) shall be the consideration agreed to by the Pueblo of Santa Clara pursuant to that certain Pueblo of Santa Clara Tribal Council Resolution No. 05–01 ''Approving Proposed San Ildefonso Claims Settlement Act of 2005, and Terms for Purchase of Northern Tier Lands'' that was signed by Governor J. Bruce Tafoya in January 2005.

(2) RESERVED RIGHTS.—On the Northern Tier Land, the United States shall reserve the right to operate, maintain, reconstruct (at standards in existence on the date of the Settlement Agreement), replace, and use the

stream gauge, and to have unrestricted administrative access over the associated roads to the gauge (as depicted in Appendix B of the Settlement Agreement).

(3) CONVEYANCE BY QUITCLAIM DEED.—The conveyance of the Northern Tier Land shall be by quitclaim deed executed on behalf of the United States by the Director of Lands and Minerals, Forest Service, Southwestern Region, Department of Agriculture.

(d) TRUST STATUS AND FOREST BOUNDARIES.—

(1) ACQUISITION OF LAND BY INDIAN TRIBE.—If the Northern Tier Land is acquired by an Indian tribe (including a Pueblo tribe), the land may be reconveyed by quitclaim deed or deeds back to the United States to be held in trust by the Secretary of the Interior for the benefit of the tribe, and the Secretary of the Interior shall accept the conveyance without any additional administrative action by the Secretary of Agriculture or the Secretary of the Interior.

(2) LAND HELD IN TRUST.—On recording a quitclaim deed described in paragraph (1) in the Land Titles and Records Office, Southwest Region, Bureau of Indian Affairs, the Northern Tier Land shall be deemed to be held in trust by the United States for the benefit of the Indian tribe.

(3) BOUNDARIES OF SANTA FE NATIONAL FOREST.—Effective on the date of a deed described in paragraph (1), the boundaries of the Santa Fe National Forest shall be deemed modified to exclude from the National Forest System the land conveyed by the deed.

(e) INHOLDER AND ADMINISTRATIVE ACCESS.—

(1) FAILURE OF PUEBLO OF SANTA CLARA TO ACT.—

(A) IN GENERAL.—If the Pueblo of Santa Clara does not exercise its option to acquire the Northern Tier Land, the Secretary of Agriculture or the Secretary of the Interior, as appropriate, shall by deed reservations or grants on land under their respective jurisdiction provide for inholder and public access across the Northern Tier Land in order to provide reasonable ingress and egress to private and Federal land as shown in Appendix B of the Settlement Agreement.

(B) ADMINISTRATION OF RESERVATIONS.—The Secretary of the Interior shall administer any such reservations on land acquired by any Indian tribe.

(2) EFFECT OF ACCEPTANCE.—If the Pueblo of Santa Clara exercises its option to acquire all of the Northern Tier Land, the following shall apply:

(A) EASEMENTS TO UNITED STATES.—

(i) DEFINITION OF ADMINISTRATIVE ACCESS.—In this subparagraph, the term ''administrative access'' means access to Federal land by Federal employees acting in the course of their official capacities in carrying out activities on Federal land authorized by law or regulation, and by agents and contractors of Federal agencies who have been engaged to perform services necessary or desirable for fire management and the health of forest resources, including the cutting and removal of vegetation, and for the health and safety of persons on the Federal land.

(ii) EASEMENTS.—

(I) IN GENERAL.—The Pueblo of Santa Clara shall grant and convey at closing perpetual easements over the existing roads to the United States that are acceptable to the Secretary of Agriculture for administrative access over the Santa Clara Reservation Highway 601 (the Puye Road), from its intersection with New Mexico State Highway 30, westerly to its intersection with the Sawyer Canyon Road (also known as Forest Development Road 445), thence southwesterly on the Sawyer Canyon Road to the point at which it exits the Santa Clara Reservation.

(II) MAINTENANCE OF ROADWAY.—An easement under this subparagraph shall provide that the United States shall be obligated to contribute to maintenance of the roadway commensurate with actual use.

(B) EASEMENTS TO PRIVATE LANDOWNERS.—Not later than 180 days after the date of enactment of this Act, the Pueblo of Santa Clara, in consultation with private landowners, shall grant and convey a perpetual easement to the private owners of land within the Northern Tier Land for private access over Santa Clara Reservation Highway 601 (Puye Road) across the Santa Clara Indian Reservation from its intersection with New Mexico State Highway 30, or other designated public road, on Forest Development Roads 416, 445 and other roads that may be necessary to provide access to each individually owned private tract.

(3) APPROVAL.—The Secretary of the Interior shall approve the conveyance of an easement under paragraph (2) upon receipt of written approval of the terms of the easement by the Secretary of Agriculture.

(4) ADEQUATE ACCESS PROVIDED BY PUEBLO OF SANTA CLARA.—If adequate administrative and inholder access is provided over the Santa Clara Indian Reservation under paragraph (2), the Secretary of the Interior—

(A) shall vacate the inholder access over that portion of Forest Development Road 416 referenced in section 7(e)(5); but

(B) shall not vacate the reservations over the Northern Tier Land for administrative access under subsection (c)(2).

SEC. 13. INTER-PUEBLO COOPERATION.

(a) DEMARCATION OF BOUNDARY.—The Pueblo of Santa Clara and the Pueblo may, by agreement, demarcate a boundary between their respective tribal land within Township 20 North, Range 7 East, in Rio Arriba County, New Mexico, and may exchange or otherwise convey land between them in that township.

(b) ACTION BY SECRETARY OF THE INTERIOR.—In accordance with any agreement under subsection (a), the Secretary of the Interior shall, without further administrative procedures or environmental or other analyses—

(1) recognize a boundary between the Pueblo of Santa Clara and the Pueblo;

(2) provide for a boundary survey;

(3) approve land exchanges and conveyances as agreed upon by the Pueblo of Santa Clara and the Pueblo; and

(4) accept conveyances of exchanged lands into trust for the benefit of the grantee tribe.

SEC. 14. DISTRIBUTION OF FUNDS PLAN.

Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall act in accordance with the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) with respect to the award entered in the compromise and settlement of claims under the case styled Pueblo of San Ildefonso v. United States, No. 660–87L, United States Court of Federal Claims.

SEC. 15. RULE OF CONSTRUCTION AND JUDICIAL REVIEW.

Notwithstanding any provision of State law, the Settlement Agreement and the Los Alamos Agreement (including any real property conveyance under the agreements) shall be interpreted and implemented as matters of Federal law.

SEC. 16. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act.

SEC. 17. TIMING OF ACTIONS.

It is the intent of Congress that the land conveyances and adjustments contemplated in this Act shall be completed not later than 180 days after the date of enactment of this Act.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as are necessary to carry out this Act.

Mr. BINGAMAN. Mr. President, I am pleased to join Senator DOMENICI in introducing the Pueblo de San Ildefonso Claims Settlement Act. This claim, the last one pending before the Indian Claims Commission, has gone unresolved for over 50 years and it is certainly long past time to bring an end to this dispute. I'd particularly like to commend the Pueblo de San Ildefonso for their diligent work on this settlement. It is testament to the Pueblo's fortitude and open-minded approach to this issue that they have been able find consensus with the many parties to this settlement and produce this compromise legislation.

As with any settlement of a lawsuit, it's unlikely that everyone will be completely happy with the terms of the deal but I am pleased to note that all of the local governments, tribal and municipal, have expressed their support. I hope that the introduction of this bill begins a productive process in the Indian Affairs Committee and, once the final product is signed into law, with the public that will definitively settle the issues of land ownership in this area and allow all of the local communities to move forward cooperatively.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 251—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT SHOULD ENSURE THAT FEDERAL RESPONSE AND RECOVERY EFFORTS FOR HURRICANE KATRINA INCLUDE CONSIDERATION FOR ANIMAL RESCUE AND CARE

Mr. ENSIGN (for himself, Mr. SANTORUM, and Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 251

Resolved, That it is the sense of the Senate that, in order to efficiently coordinate and respond to the growing crisis represented by the large number of animals left behind in the Gulf Coast region, the President should ensure that the Federal response and recovery efforts for Hurricane Katrina include consideration for animal rescue and care.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Committee on Indian Affairs has postponed the oversight hearing scheduled for Wednesday, September 28, 2005, at 2:30 p.m. in Room 485 of the Russell Senate Office Building. Those wishing additional information may contact the Indian Affairs Committee.

PRIVILEGE OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that Sam Schneider, Joshu Harris, Jennie Pasquarella, and Matt Oresman, all law clerks in my office, be granted the privilege of the floor during the Senate's debate and vote on the nomination of John G. Roberts, Jr., to be Chief Justice of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

On Thursday, September 22, 2005, the Senate passed H.R. 2744, as amended, as follows:

H.R. 2744

Resolved, That the bill from the House of Representatives (H.R. 2744) entitled ''An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, $5,127,000: Provided, That not to exceed $11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

EXECUTIVE OPERATIONS

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $10,539,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, $14,524,000.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, $8,298,000.

HOMELAND SECURITY STAFF

For necessary expenses of the Homeland Security Staff, $1,166,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, $16,726,000.

COMMON COMPUTING ENVIRONMENT

For necessary expenses to acquire a Common Computing Environment for the Natural Resources Conservation Service, the Farm and Foreign Agricultural Service, and Rural Development mission areas for information technology, systems, and services, $118,072,000, to remain available until expended, for the capital asset acquisition of shared information technology systems, including services as authorized by 7 U.S.C. 6915–16 and 40 U.S.C. 1421–28: Provided, That obligation of these funds shall be consistent with the Department of Agriculture Service Center Modernization Plan of the county-based agencies, and shall be with the concurrence of the Department's Chief Information Officer.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, $5,874,000: Provided, That the Chief Financial Officer shall actively market and expand cross-servicing activities of the National Finance Center: Provided further, That no funds made available by this appropriation may be obligated for FAIR Act or Circular A–76 activities until the Secretary has submitted to the Committees on Appropriations of both Houses of Congress and the Committee on Government Reform of the House of Representatives a report on the Department's contracting out policies, including agency budgets for contracting out.

OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

For necessary salaries and expenses of the Office of the Assistant Secretary for Civil Rights, $821,000.

OFFICE OF CIVIL RIGHTS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of Civil Rights, $20,109,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration, $676,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for alterations and other actions needed for the Department and its agencies to consolidate unneeded space into configurations suitable for release to the Administrator of General Services, and for the operation, maintenance, improvement, and repair of Agriculture buildings and facilities, and for related costs, $187,734,000, to remain available until expended, as follows: for payments to the General Services Administration and the Department of Homeland Security for building security, $147,734,000, and for buildings operations and maintenance, $40,000,000: Provided, That amounts which are made available for space rental and related costs for the Department of Agriculture in this Act may be transferred between such appropriations to cover the costs of additional, new, or replacement space 15 days after notice thereof is transmitted to the Appropriations Committees of both Houses of Congress.

HAZARDOUS MATERIALS MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.) and the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), $12,000,000, to remain available until expended: Provided, That appropriations and funds available herein to the Department for Hazardous Materials Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, $23,103,000, to provide for necessary expenses for management support services to offices of the Department and for general administration, security, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department: Provided, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

(INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded by this Act, including programs involving intergovernmental affairs and liaison within the executive branch, $3,846,000: Provided, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: Provided further, That no funds made available by this appropriation may be obligated after 30 days from the date of enactment of this Act, unless the Secretary has notified the Committees on Appropriations of both Houses of Congress on the allocation of these funds by USDA agency: Provided further, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

OFFICE OF COMMUNICATIONS

For necessary expenses to carry out services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, $9,509,000: Provided, That not to exceed $2,000,000 may be used for farmers' bulletins.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the Inspector General Act of 1978, $81,045,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, and including not to exceed $125,000 for certain confidential operational expenses, including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $40,263,000.

OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION AND ECONOMICS

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State Research, Education, and Extension Service, $598,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $78,549,000.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, marketing surveys, and the

Census of Agriculture, as authorized by 7 U.S.C. 1621–1627 and 2204g, and other laws, $145,159,000, of which up to $29,115,000 shall be available until expended for the Census of Agriculture.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, and for land exchanges where the lands exchanged shall be of equal value or shall be equalized by a payment of money to the grantor which shall not exceed 25 percent of the total value of the land or interests transferred out of Federal ownership, $1,109,981,000: Provided, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: Provided further, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed $375,000, except for headhouses or greenhouses which shall each be limited to $1,200,000, and except for 10 buildings to be constructed or improved at a cost not to exceed $750,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or $375,000, whichever is greater: Provided further, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: Provided further, That appropriations hereunder shall be available for granting easements at the Beltsville Agricultural Research Center: Provided further, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): Provided further, That the foregoing limitations shall not apply to the purchase of land at Florence, South Carolina: Provided further, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law: Provided further, That the Secretary, through the Agricultural Research Service, or successor, may lease approximately 40 acres of land at the Central Plains Experiment Station, Nunn, Colorado, to the Board of Governors of the Colorado State University System, for its Shortgrass Steppe Biological Field Station, on such terms and conditions as the Secretary deems in the public interest: Provided further, That the Secretary understands that it is the intent of the University to construct research and educational buildings on the subject acreage and to conduct agricultural research and educational activities in these buildings: Provided further, That as consideration for a lease, the Secretary may accept the benefits of mutual cooperative research to be conducted by the Colorado State University and the Government at the Shortgrass Steppe Biological Field Station: Provided further, That the term of any lease shall be for no more than 20 years, but a lease may be renewed at the option of the Secretary on such terms and conditions as the Secretary deems in the public interest: Provided further, That the Agricultural Research Service may convey all rights and title of the United States, to a parcel of land comprising 19 acres, more or less, located in Section 2, Township 18 North, Range 14 East in Oktibbeha County, Mississippi, originally conveyed by the Board of Trustees of the Institution of Higher Learning of the State of Mississippi, and described in instruments recorded in Deed Book 306 at pages 553–554, Deed Book 319 at page 219, and Deed Book 33 at page 115, of the public land records of Oktibbeha County, Mississippi, including facilities, and fixed equipment, to the Mississippi State University, Starkville, Mississippi, in their ''as is'' condition, when vacated by the Agricultural Research Service.

None of the funds appropriated under this heading shall be available to carry out research related to the production, processing, or marketing of tobacco or tobacco products.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $160,645,000, to remain available until expended.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, $652,231,000, as follows: to carry out the provisions of the Hatch Act of 1887 (7 U.S.C. 361a–i), $178,707,000; for grants for cooperative forestry research (16 U.S.C. 582a through a–7), $22,205,000; for payments to the 1890 land-grant colleges, including Tuskegee University and West Virginia State University (7 U.S.C. 3222), $37,477,000, of which $1,507,496 shall be made available only for the purpose of ensuring that each institution shall receive no less than $1,000,000; for special grants for agricultural research (7 U.S.C. 450i(c)), $110,281,000; for special grants for agricultural research on improved pest control (7 U.S.C. 450i(c)), $15,158,000; for competitive research grants (7 U.S.C. 450i(b)), $190,000,000; for the support of animal health and disease programs (7 U.S.C. 3195), $5,057,000; for supplemental and alternative crops and products (7 U.S.C. 3319d), $833,000; for grants for research pursuant to the Critical Agricultural Materials Act (7 U.S.C. 178 et seq.), $1,102,000, to remain available until expended; for the 1994 research grants program for 1994 institutions pursuant to section 536 of Public Law 103–382 (7 U.S.C. 301 note), $1,078,000, to remain available until expended; for rangeland research grants (7 U.S.C. 3333), $992,000; for higher education graduate fellowship grants (7 U.S.C. 3152(b)(6)), $2,976,000, to remain available until expended (7 U.S.C. 2209b); for a higher education agrosecurity education program (7 U.S.C. 3351), $750,000, to remain available until expended; for higher education challenge grants (7 U.S.C. 3152(b)(1)), $5,456,000; for a higher education multicultural scholars program (7 U.S.C. 3152(b)(5)), $990,000, to remain available until expended (7 U.S.C. 2209b); for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241), $5,600,000; for noncompetitive grants for the purpose of carrying out all provisions of 7 U.S.C. 3242 (section 759 of Public Law 106–78) to individual eligible institutions or consortia of eligible institutions in Alaska and in Hawaii, with funds awarded equally to each of the States of Alaska and Hawaii, $3,472,000; for a secondary agriculture education program and 2-year post-secondary education (7 U.S.C. 3152(j)), $992,000; for aquaculture grants (7 U.S.C. 3322), $3,968,000; for sustainable agriculture research and education (7 U.S.C. 5811), $12,400,000; for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University and West Virginia State University, $12,312,000, to remain available until expended (7 U.S.C. 2209b); for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103–382, $2,232,000; and for necessary expenses of Research and Education Activities, $38,193,000, of which $2,424,000 for the Research, Education, and Economics Information System and $1,928,000 for the Electronic Grants Information System, are to remain available until expended.

None of the funds appropriated under this heading shall be available to carry out research related to the production, processing, or marketing of tobacco or tobacco products: Provided, That this paragraph shall not apply to research on the medical, biotechnological, food, and industrial uses of tobacco.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For the Native American Institutions Endowment Fund authorized by Public Law 103–382 (7 U.S.C. 301 note), $12,000,000, to remain available until expended.

EXTENSION ACTIVITIES

For payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa, $453,438,000, as follows: payments for cooperative extension work under the Smith-Lever Act, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93–471, for retirement and employees' compensation costs for extension agents, $275,520,000; payments for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)), $3,247,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $62,909,000; payments for the pest management program under section 3(d) of the Act, $9,920,000; payments for the farm safety program under section 3(d) of the Act, $4,563,000; payments for New Technologies for Ag Extension under Section 3(d) of the Act, $2,000,000; payments to upgrade research, extension, and teaching facilities at the 1890 land-grant colleges, including Tuskegee University and West Virginia State University, as authorized by section 1447 of Public Law 95–113 (7 U.S.C. 3222b), $16,777,000, to remain available until expended; payments for youth-at-risk programs under section 3(d) of the Smith-Lever Act, $7,478,000; for youth farm safety education and certification extension grants, to be awarded competitively under section 3(d) of the Act, $440,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.), $4,060,000; payments for Indian reservation agents under section 3(d) of the Smith-Lever Act, $1,760,000; payments for sustainable agriculture programs under section 3(d) of the Act, $4,067,000; payments for rural health and safety education as authorized by section 502(i) of Public Law 92–419 (7 U.S.C. 2662(i)), $1,965,000; payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326 and 328) and Tuskegee University and West Virginia State University, $33,643,000, of which $1,724,884 shall be made available only for the purpose of ensuring that each institution shall receive no less than $1,000,000; for grants to youth organizations pursuant to section 7630 of title 7, United States Code, $2,646,000; and for necessary expenses of Extension Activities, $22,443,000.

INTEGRATED ACTIVITIES

For the integrated research, education, and extension grants programs, including necessary administrative expenses, $55,784,000, as follows: for competitive grants programs authorized under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626), $45,784,000, including $12,867,000 for the water quality program, $14,847,000 for the food safety program, $4,167,000 for the regional pest management centers program, $4,464,000 for the Food Quality Protection Act risk mitigation program for major food crop systems, $1,389,000 for the crops affected by Food Quality Protection Act implementation,

$3,106,000 for the methyl bromide transition program, and $1,874,000 for the organic transition program; for a competitive international science and education grants program authorized under section 1459A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b), to remain available until expended, $992,000; for grants programs authorized under section 2(c)(1)(B) of Public Law 89–106, as amended, $744,000, to remain available until September 30, 2007 for the critical issues program, and $1,334,000 for the regional rural development centers program; and $10,000,000 for the Food and Agriculture Defense Initiative authorized under section 1484 of the National Agricultural Research, Extension, and Teaching Act of 1977, to remain available until September 30, 2007.

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), $5,888,000, to remain available until expended.

OFFICE OF THE UNDER SECRETARY FOR MARKETING AND REGULATORY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service; the Agricultural Marketing Service; and the Grain Inspection, Packers and Stockyards Administration; $724,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; and to protect the environment, as authorized by law, $807,768,000, of which $4,140,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions; of which $39,900,000 shall be used for the boll weevil eradication program for cost share purposes or for debt retirement for active eradication zones; of which $32,932,000 shall be available for a National Animal Identification program: Provided, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: Provided further, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: Provided further, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as may be deemed necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with sections 10411 and 10417 of the Animal Health Protection Act (7 U.S.C. 8310 and 8316) and sections 431 and 442 of the Plant Protection Act (7 U.S.C. 7751 and 7772), and any unexpended balances of funds transferred for such emergency purposes in the preceding fiscal year shall be merged with such transferred amounts: Provided further, That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building: Provided further, That none of the funds may be used to demolish or dismantle the Hawaii Fruit Fly Production Facility in Waimanalo, Hawaii.

In fiscal year 2006, the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $4,996,000, to remain available until expended.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry out services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States, $76,643,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $65,667,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: Provided, That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $16,055,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937 and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $3,847,000, of which not less than $2,500,000 shall be used to make a grant under this heading.

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, $38,443,000: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $42,463,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: Provided, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, $602,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, including not to exceed $50,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $836,818,000, of which no less than $751,457,000 shall be available for Federal food safety inspection; and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1327 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 138f): Provided, That no fewer than 63 full time equivalent positions above the fiscal year 2002 level shall be employed during fiscal year 2006 for purposes dedicated solely to inspections and enforcement related to the Humane Methods of Slaughter Act: Provided further, That of the amount available under this heading, notwithstanding section 704 of this Act $5,000,000, available until September 30, 2007, shall be obligated to include the Humane Animal Tracking System as part of the Field Automation and Information Management System following notification to the Committees on Appropriations, which shall include a detailed explanation of the components of such system: Provided further, That of the total amount made available under this heading, no less than $20,653,000 shall be obligated for regulatory and scientific training: Provided further, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, the Foreign Agricultural Service, the Risk Management Agency, and the Commodity Credit Corporation, $635,000.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, $1,043,555,000: Provided, That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency:

Provided further, That other funds made available to the Agency for authorized activities may be advanced to and merged with this account.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $4,250,000.

GRASSROOTS SOURCE WATER PROTECTION PROGRAM

For necessary expenses to carry out wellhead or groundwater protection activities under section 1240O of the Food Security Act of 1985 (16 U.S.C. 3839bb–2), $4,250,000, to remain available until expended.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers and manufacturers of dairy products under a dairy indemnity program, $100,000, to remain available until expended: Provided, That such program is carried out by the Secretary in the same manner as the dairy indemnity program described in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387, 114 Stat. 1549A–12).

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, Indian tribe land acquisition loans (25 U.S.C. 488), and boll weevil loans (7 U.S.C. 1989), to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $1,608,000,000, of which $1,400,000,000 shall be for guaranteed loans and $208,000,000 shall be for direct loans; operating loans, $2,033,000,000, of which $1,100,000,000 shall be for unsubsidized guaranteed loans, $283,000,000 shall be for subsidized guaranteed loans and $650,000,000 shall be for direct loans; Indian tribe land acquisition loans, $2,000,000; and for boll weevil eradication program loans, $100,000,000: Provided, That the Secretary shall deem the pink bollworm to be a boll weevil for the purpose of boll weevil eradication program loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $17,370,000, of which $6,720,000 shall be for guaranteed loans, and $10,650,000 shall be for direct loans; operating loans, $133,380,000, of which $33,330,000 shall be for unsubsidized guaranteed loans, $35,375,000 shall be for subsidized guaranteed loans, and $64,675,000 shall be for direct loans; and Indian tribe land acquisition loans, $80,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $317,137,000, of which $309,137,000 shall be transferred to and merged with the appropriation for ''Farm Service Agency, Salaries and Expenses''.

Funds appropriated by this Act to the Agricultural Credit Insurance Program Account for farm ownership and operating direct loans and guaranteed loans may be transferred among these programs: Provided, That the Committees on Appropriations of both Houses of Congress are notified at least 15 days in advance of any transfer.

RISK MANAGEMENT AGENCY

For administrative and operating expenses, as authorized by section 226A of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6933), $73,448,000: Provided, That not to exceed $1,000 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516), such sums as may be necessary, to remain available until expended.

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For the current fiscal year, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to section 2 of the Act of August 17, 1961 (15 U.S.C. 713a–11): Provided, That of the funds available to the Commodity Credit Corporation under section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C 714i) for the conduct of its business with the Foreign Agricultural Service, up to $5,000,000 may be transferred to and used by the Foreign Agricultural Service for information resource management activities of the Foreign Agricultural Service that are not related to Commodity Credit Corporation business.

HAZARDOUS WASTE MANAGEMENT

(LIMITATION ON EXPENSES)

For the current fiscal year, the Commodity Credit Corporation shall not expend more than $5,000,000 for site investigation and cleanup expenses, and operations and maintenance expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9607(g)), and section 6001 of the Resource Conservation and Recovery Act (42 U.S.C. 6961).

TITLE II

CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, $744,000.

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses to carry out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed $100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $819,561,000, to remain available until expended, of which not less than $11,000,000 is for snow survey and water forecasting, and not less than $11,847,000 is for operation and establishment of the plant materials centers, and of which not less than $28,156,000 shall be for the grazing lands conservation initiative: Provided, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed $250,000: Provided further, That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: Provided further, That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1592(c)): Provided further, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service.

WATERSHED SURVEYS AND PLANNING

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, and for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1009), $5,141,000.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1005 and 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $60,000,000, to remain available until expended; of which up to $10,000,000 may be available for the watersheds authorized under the Flood Control Act (33 U.S.C. 701 and 16 U.S.C. 1006a): Provided, That not to exceed $27,199,000 of this appropriation shall be available for technical assistance: Provided further, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

WATERSHED REHABILITATION PROGRAM

For necessary expenses to carry out rehabilitation of structural measures, in accordance with section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012), and in accordance with the provisions of laws relating to the activities of the Department, $27,313,000, to remain available until expended.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of sections 31 and 32 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1011; 76 Stat. 607); the Act of April 27, 1935 (16 U.S.C. 590a–f); and subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $51,228,000, to remain available until expended.

TITLE III

RURAL DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, the Rural Business-Cooperative Service, and the Rural Utilities Service of the Department of Agriculture, $635,000.

RURAL COMMUNITY ADVANCEMENT PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1926a, 1926c, 1926d, and 1932, except for sections 381E–H and 381N of the Consolidated Farm and

Rural Development Act, $705,106,000, to remain available until expended, of which $86,770,000 shall be for rural community programs described in section 381E(d)(1) of such Act; of which $528,115,000 shall be for the rural utilities programs described in sections 381E(d)(2), 306C(a)(2), and 306D of such Act, of which not to exceed $496,000 shall be available for the rural utilities program described in section 306(a)(2)(B) of such Act, and of which not to exceed $992,000 shall be available for the rural utilities program described in section 306E of such Act; and of which $90,221,000 shall be for the rural business and cooperative development programs described in sections 381E(d)(3) and 310B(f) of such Act: Provided, That of the total amount appropriated in this account, $26,000,000 shall be for loans and grants to benefit Federally Recognized Native American Tribes, including grants for drinking water and waste disposal systems pursuant to section 306C of such Act, of which $4,464,000 shall be available for community facilities grants to tribal colleges, as authorized by section 306(a)(19) of the Consolidated Farm and Rural Development Act, and of which $250,000 shall be available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development: Provided further, That of the amount appropriated for rural community programs, $6,500,000 shall be available for a Rural Community Development Initiative: Provided further, That such funds shall be used solely to develop the capacity and ability of private, nonprofit community-based housing and community development organizations, low-income rural communities, and Federally Recognized Native American Tribes to undertake projects to improve housing, community facilities, community and economic development projects in rural areas: Provided further, That such funds shall be made available to qualified private, nonprofit and public intermediary organizations proposing to carry out a program of financial and technical assistance: Provided further, That such intermediary organizations shall provide matching funds from other sources, including Federal funds for related activities, in an amount not less than funds provided: Provided further, That of the amount appropriated for the rural business and cooperative development programs, not to exceed $500,000 shall be made available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development; $140,000 shall be made available to conduct a feasibility study; $3,000,000 shall be for grants to the Delta Regional Authority (7 U.S.C. 1921 et seq.) for any purpose under this heading: Provided further, That of the amount appropriated for rural utilities programs, not to exceed $25,000,000 shall be for water and waste disposal systems to benefit the Colonias along the United States/Mexico border, including grants pursuant to section 306C of such Act; $26,000,000 shall be for water and waste disposal systems for rural and native villages in Alaska pursuant to section 306D of such Act, with up to 2 percent available to administer the program and/or improve interagency coordination may be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses'', of which $100,000 shall be provided to develop a regional system for centralized billing, operation, and management of rural water and sewer utilities through regional cooperatives, of which 25 percent shall be provided for water and sewer projects in regional hubs, and the State of Alaska shall provide a 25 percent cost share, and grantees may use up to 5 percent of grant funds, not to exceed $35,000 per community, for the completion of comprehensive community safe water plans; not to exceed $18,250,000 shall be for technical assistance grants for rural water and waste systems pursuant to section 306(a)(14) of such Act, of which $5,600,000 shall be for Rural Community Assistance Programs and not less than $850,000 shall be for a qualified national Native American organization to provide technical assistance for rural water systems for tribal communities; and not to exceed $13,500,000 shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: Provided further, That of the total amount appropriated, not to exceed $21,367,000 shall be available through June 30, 2006, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones; of which $1,067,000 shall be for the rural community programs described in section 381E(d)(1) of such Act, of which $12,000,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act, and of which $8,300,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act: Provided further, That of the amount appropriated for rural community programs, $20,000,000 shall be to provide grants for facilities in rural communities with extreme unemployment and severe economic depression (Public Law 106–387), with 5 percent for administration and capacity building in the State rural development offices: Provided further, That of the amount appropriated, $28,000,000 shall be transferred to and merged with the ''Rural Utilities Service, High Energy Cost Grants Account'' to provide grants authorized under section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 918a): Provided further, That any prior year balances for high cost energy grants authorized by section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 901(19)) shall be transferred to and merged with the ''Rural Utilities Service, High Energy Costs Grants Account''.

RURAL DEVELOPMENT SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives; and for cooperative agreements; $164,773,000: Provided, That notwithstanding any other provision of law, funds appropriated under this section may be used for advertising and promotional activities that support the Rural Development mission area: Provided further, That not more than $10,000 may be expended to provide modest nonmonetary awards to non-USDA employees: Provided further, That any balances available from prior years for the Rural Utilities Service, Rural Housing Service, and the Rural Business-Cooperative Service salaries and expenses accounts shall be transferred to and merged with this appropriation.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: $4,927,581,000 for loans to section 502 borrowers, as determined by the Secretary, of which $1,000,000,000 shall be for direct loans, and of which $3,681,033,000 shall be for unsubsidized guaranteed loans; $35,000,000 for section 504 housing repair loans; $90,000,000 for section 515 rental housing; $100,000,000 for section 538 guaranteed multi-family housing loans; $5,000,000 for section 524 site loans; $11,500,000 for credit sales of acquired property, of which up to $1,500,000 may be for multi-family credit sales; and $5,048,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, $154,800,000, of which $113,900,000 shall be for direct loans, and of which $40,900,000, to remain available until expended, shall be for unsubsidized guaranteed loans; section 504 housing repair loans, $10,238,000; repair, rehabilitation, and new construction of section 515 rental housing, $41,292,000; section 538 multi-family housing guaranteed loans, $5,420,000; multi-family credit sales of acquired property, $681,000; section 523 self-help housing and development loans, $52,000: Provided, That of the total amount appropriated in this paragraph, $2,500,000 shall be available through June 30, 2006, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones: Provided further, That any funds under this paragraph initially allocated by the Secretary for housing projects in the State of Alaska that are not obligated by September 30, 2006, shall be carried over until September 30, 2007, and made available for such housing projects only in the State of Alaska.

For additional costs to conduct a demonstration program for the preservation and revitalization of the section 515 multi-family rental housing properties, $16,500,000, to remain available until expended: Provided, That funding made available under this heading shall be used to restructure existing section 515 loans, as the Secretary deems appropriate, expressly for the purposes of ensuring the project has sufficient resources to preserve the project for the purpose of providing safe and affordable housing for low-income residents including reducing or eliminating interest; deferring loan payments, subordinating, reducing or reamortizing loan debt; and other financial assistance including advances and incentives required by the Secretary.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $465,886,000, which shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, $653,102,000; and, in addition, such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: Provided, That of this amount, no less than $8,976,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $50,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: Provided further, That agreements entered into or renewed during the current fiscal year shall be funded for a four-year period: Provided further, That any unexpended balances remaining at the end of such four-year agreements may be transferred and used for the purposes of any debt reduction; maintenance, repair, or rehabilitation of any existing projects; preservation; and rental assistance activities authorized under title V of the Act: Provided further, That rental assistance that is recovered from projects that are subject to prepayment shall be deobligated and reallocated for vouchers and debt forgiveness or payments consistent with the requirements of this Act for purposes authorized under section 542 and section 502(c)(5)(D) of the Housing Act of 1949, as amended.

RURAL HOUSING VOUCHER PROGRAM

For the rural housing voucher program as authorized under section 542 of the Housing Act of 1949, (without regard to section 542(b)),

$16,000,000, to remain available until expended: Provided, That such vouchers shall be available to any low-income household (including those not receiving rental assistance) residing in a property financed with a section 515 loan which has been prepaid after September 30, 2005: Provided further, That the amount of the voucher shall be the difference between comparable market rent for the section 515 unit and the tenant paid rent for such unit: Provided further, That funds made available for such vouchers, shall be subject to the availability of annual appropriations: Provided further, That the Secretary shall, to the maximum extent practicable, administer such vouchers with current regulations and administrative guidance applicable for section 8 housing vouchers administered by the Secretary of the Department of Housing and Urban Development (including the ability to pay administrative costs related to delivery of the voucher funds).

MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $34,000,000, to remain available until expended: Provided, That of the total amount appropriated, $1,000,000 shall be available through June 30, 2005, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

RURAL HOUSING ASSISTANCE GRANTS

For grants and contracts for very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, 1479(c), 1490e, and 1490m, $43,976,000, to remain available until expended: Provided, That $2,976,000 shall be made available for loans to private non-profit organizations, or such non-profit organizations' affiliate loan funds and State and local housing finance agencies, to carry out a housing demonstration program to provide revolving loans for the preservation of low-income multi-family housing projects: Provided further, That loans under such demonstration program shall have an interest rate of not more than 1 percent direct loan to the recipient: Provided further, That the Secretary may defer the interest and principal payment to the Rural Housing Service for up to 3 years and the term of such loans shall not exceed 30 years: Provided further, That of the total amount appropriated, $1,200,000 shall be available through June 30, 2006, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

FARM LABOR PROGRAM ACCOUNT

For the cost of direct loans, grants, and contracts, as authorized by 42 U.S.C. 1484 and 1486, $29,607,000, to remain available until expended, for direct farm labor housing loans and domestic farm labor housing grants and contracts.

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the principal amount of direct loans, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), $34,212,000.

For the cost of direct loans, $14,718,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), of which $1,724,000 shall be available through June 30, 2006, for Federally Recognized Native American Tribes and of which $3,449,000 shall be available through June 30, 2006, for Mississippi Delta Region counties (as determined in accordance with Public Law 100–460): Provided, That of such amount made available, the Secretary may provide up to $1,500,000 for the Delta Regional Authority (7 U.S.C. 1921 et seq.): Provided further, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That of the total amount appropriated, $887,000 shall be available through June 30, 2006, for the cost of direct loans for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses to carry out the direct loan programs, $6,656,000 shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING RESCISSION OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $25,003,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $4,993,000, to remain available until expended.

Of the funds derived from interest on the cushion of credit payments in the current fiscal year, as authorized by section 313 of the Rural Electrification Act of 1936, $4,993,000 shall not be obligated and $4,993,000 are rescinded.

RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), $24,988,000, of which $500,000 shall be for a cooperative research agreement with a qualified academic institution to conduct research on the national economic impact of all types of cooperatives; and of which $2,500,000 shall be for cooperative agreements for the appropriate technology transfer for rural areas program: Provided, That not to exceed $1,488,000 shall be for cooperatives or associations of cooperatives whose primary focus is to provide assistance to small, minority producers and whose governing board and/or membership is comprised of at least 75 percent minority; and of which $15,500,000, to remain available until expended, shall be for value-added agricultural product market development grants, as authorized by section 6401 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1621 note).

RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITY GRANTS

For grants in connection with second and third rounds of empowerment zones and enterprise communities, $12,400,000, to remain available until expended, for designated rural empowerment zones and rural enterprise communities, as authorized by the Taxpayer Relief Act of 1997 and the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277): Provided, That of the funds appropriated, $1,000,000 shall be made available to third round empowerment zones, as authorized by the Community Renewal Tax Relief Act (Public Law 106–554).

RENEWABLE ENERGY PROGRAM

For the cost of a program of direct loans, loan guarantees, and grants, under the same terms and conditions as authorized by section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106), $23,000,000 for direct and guaranteed renewable energy loans and grants: Provided, That the cost of direct loans and loan guarantees, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) shall be made as follows: 5 percent rural electrification loans, $100,000,000; municipal rate rural electric loans, $100,000,000; loans made pursuant to section 306 of that Act, rural electric, $2,700,000,000; Treasury rate direct electric loans, $1,000,000,000; guaranteed underwriting loans pursuant to section 313A, $1,500,000,000; 5 percent rural telecommunications loans, $145,000,000; cost of money rural telecommunications loans, $425,000,000; and for loans made pursuant to section 306 of that Act, rural telecommunications loans, $125,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by sections 305 and 306 of the Rural Electrification Act of 1936 (7 U.S.C. 935 and 936), as follows: cost of rural electric loans, $6,160,000, and the cost of telecommunications loans, $212,000: Provided, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $39,933,000 which shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

RURAL TELEPHONE BANK PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out its authorized programs.

For administrative expenses, including audits, necessary to continue to service existing loans, $2,500,000, which shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

For the principal amount of broadband telecommunication loans, $550,000,000.

For grants for telemedicine and distance learning services in rural areas, as authorized by 7 U.S.C. 950aaa et seq., $35,000,000, to remain available until expended: Provided, That $10,000,000 shall be made available to convert analog to digital operation those noncommercial educational television broadcast stations that serve rural areas and are qualified for Community Service Grants by the Corporation for Public Broadcasting under section 396(k) of the Communications Act of 1934, including associated translators and repeaters, regardless of the location of their main transmitter, studio-to-transmitter links, and equipment to allow local control over digital content and programming through the use of high-definition broadcast, multi-casting and datacasting technologies.

For the cost of broadband loans, as authorized by 7 U.S.C. 901 et seq., $11,825,000, to remain available until September 30, 2007: Provided, That the interest rate for such loans shall be the cost of borrowing to the Department of the Treasury for obligations of comparable maturity: Provided further, That the cost of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, $10,000,000, to remain available until expended, for a grant program to finance broadband transmission in rural areas eligible for Distance Learning and Telemedicine Program benefits authorized by 7 U.S.C. 950aaa.

TITLE IV

DOMESTIC FOOD PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service, $599,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; $12,422,027,000, to remain available through September 30, 2007, of which $7,234,406,000 is hereby appropriated and $5,187,621,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): Provided, That none of the funds made available under this heading shall be used for studies and evaluations: Provided further, That up to $5,235,000 shall be available for independent verification of school food service claims: Provided further, That not less than $20,025,000 shall be available to implement and administer Team Nutrition programs of the Department of Agriculture.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $5,257,000,000, to remain available through September 30, 2007, of which such sums as are necessary to restore the contingency reserve to $125,000,000 shall be placed in reserve, to remain available until expended, to be allocated as the Secretary deems necessary, notwithstanding section 17(i) of such Act, to support participation should cost or participation exceed budget estimates: Provided, That of the total amount available, the Secretary shall obligate not less than $15,000,000 for a breastfeeding support initiative in addition to the activities specified in section 17(h)(3)(A): Provided further, That only the provisions of section 17(h)(10)(B)(i) and section 17(h)(10)(B)(ii) shall be effective in 2006; including $14,000,000 for the purposes specified in section 17(h)(10)(B)(i) and $20,000,000 for the purposes specified in section 17(h)(10)(B)(ii): Provided further, That none of the funds made available under this heading shall be used for studies and evaluations: Provided further, That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: Provided further, That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of such Act: Provided further, That none of the funds provided shall be available for activities that are not fully reimbursed by other Federal Government departments or agencies unless authorized by section 17 of such Act.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), $40,711,395,000, of which $3,000,000,000 to remain available through September 30, 2007, shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: Provided, That none of the funds made available under this heading shall be used for studies and evaluations: Provided further, That of the funds made available under this heading and not already appropriated to the Food Distribution Program on Indian Reservations (FDPIR) established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)), not to exceed $4,000,000 shall be used to purchase bison meat for the FDPIR from Native American bison producers as well as from producer-owned cooperatives of bison ranchers: Provided further, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: Provided further, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: Provided further, That funds made available for Employment and Training under this heading shall remain available until expended, as authorized by section 16(h)(1) of the Food Stamp Act: Provided further, That notwithstanding section 5(d) of the Food Stamp Act of 1977, any additional payment received under chapter 5 of title 37, United States Code, by a member of the United States Armed Forces deployed to a designated combat zone shall be excluded from household income for the duration of the member's deployment if the additional pay is the result of deployment to or while serving in a combat zone, and it was not received immediately prior to serving in the combat zone.

COMMODITY ASSISTANCE PROGRAM

For necessary expenses to carry out disaster assistance and the Commodity Supplemental Food Program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note); The Emergency Food Assistance Act of 1983; special assistance (in a form determined by the Secretary of Agriculture) for the nuclear affected islands, as authorized by section 103(f)(2) of the Compact of Free Association Amendments Act of 2003 (Public Law 108–188); and the Farmers' Market Nutrition Program, as authorized by section 17(m) of the Child Nutrition Act of 1966, $179,935,000, to remain available through September 30, 2007: Provided, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program: Provided further, That notwithstanding any other provision of law, effective with funds made available in fiscal year 2006 to support the Senior Farmers' Market Nutrition Program, as authorized by section 4402 of Public Law 107–171, such funds shall remain available through September 30, 2007: Provided further, That of the funds made available under section 27(a) of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the Secretary may use up to $10,000,000 for costs associated with the distribution of commodities.

NUTRITION PROGRAMS ADMINISTRATION

For necessary administrative expenses of the domestic nutrition assistance programs funded under this Act, $140,761,000, of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp benefit delivery, and assisting in the prevention, identification, and prosecution of fraud and other violations of law.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $158,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $147,868,000: Provided, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1737) and the foreign assistance programs of the United States Agency for International Development.

PUBLIC LAW 480 TITLE I DIRECT CREDIT AND FOOD FOR PROGRESS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of agreements under the Agricultural Trade Development and Assistance Act of 1954, and the Food for Progress Act of 1985, including the cost of modifying credit arrangements under said Acts, $65,040,000, to remain available until expended: Provided, That the Secretary of Agriculture may implement a commodity monetization program under existing provisions of the Food for Progress Act of 1985 to provide no less than $5,000,000 in local-currency funding support for rural electrification development overseas.

In addition, for administrative expenses to carry out the credit program of title I, Public Law 83–480, and the Food for Progress Act of 1985, to the extent funds appropriated for Public Law 83–480 are utilized, $3,385,000, of which $168,000 may be transferred to and merged with the appropriation for ''Foreign Agricultural Service, Salaries and Expenses'', and of which $3,217,000 may be transferred to and merged with the appropriation for ''Farm Service Agency, Salaries and Expenses''.

PUBLIC LAW 480 TITLE I OCEAN FREIGHT DIFFERENTIAL GRANTS

(INCLUDING TRANSFER OF FUNDS)

For ocean freight differential costs for the shipment of agricultural commodities under title I of the Agricultural Trade Development and Assistance Act of 1954 and under the Food for Progress Act of 1985, $11,940,000, to remain available until expended: Provided, That funds made available for the cost of agreements under title I of the Agricultural Trade Development and Assistance Act of 1954 and for title I ocean freight differential may be used interchangeably between the two accounts with prior notice to the Committees on Appropriations of both Houses of Congress.

PUBLIC LAW 480 TITLE II GRANTS

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, $1,150,000,000, to remain available until expended.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $5,279,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which $3,440,000 may be transferred to and merged with the appropriation for ''Foreign Agricultural Service, Salaries and Expenses'', and of which $1,839,000 may be transferred to and merged with the appropriation for ''Farm Service Agency, Salaries and Expenses''.

MC GOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM GRANTS

For necessary expenses to carry out the provisions of section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1), $100,000,000, to remain available until expended: Provided, That the Commodity Credit Corporation is authorized to provide the services, facilities, and authorities for the purpose of implementing such section, subject to reimbursement from amounts provided herein.

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for payment of space

rental and related costs pursuant to Public Law 92–313 for programs and activities of the Food and Drug Administration which are included in this Act; for rental of special purpose space in the District of Columbia or elsewhere; for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; and notwithstanding section 521 of Public Law 107–188; $1,841,959,000: Provided, That of the amount provided under this heading, $305,332,000 shall be derived from prescription drug user fees authorized by 21 U.S.C. 379h, shall be credited to this account and remain available until expended, and shall not include any fees pursuant to 21 U.S.C. 379h(a)(2) and (a)(3) assessed for fiscal year 2007 but collected in fiscal year 2006; $40,300,000 shall be derived from medical device user fees authorized by 21 U.S.C. 379j, and shall be credited to this account and remain available until expended; and $11,318,000 shall be derived from animal drug user fees authorized by 21 U.S.C. 379j, and shall be credited to this account and remain available until expended: Provided further, That fees derived from prescription drug, medical device, and animal drug assessments received during fiscal year 2006, including any such fees assessed prior to the current fiscal year but credited during the current year, shall be subject to the fiscal year 2006 limitation: Provided further, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: Provided further, That of the total amount appropriated: (1) $450,179,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) $515,430,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs; (3) $178,714,000 shall be for the Center for Biologics Evaluation and Research and for related field activities in the Office of Regulatory Affairs; (4) $99,787,000 shall be for the Center for Veterinary Medicine and for related field activities in the Office of Regulatory Affairs; (5) $245,770,000 shall be for the Center for Devices and Radiological Health and for related field activities in the Office of Regulatory Affairs; (6) $41,152,000 shall be for the National Center for Toxicological Research; (7) $58,515,000 shall be for Rent and Related activities, other than the amounts paid to the General Services Administration for rent; (8) $134,853,000 shall be for payments to the General Services Administration for rent; and (9) $117,559,000 shall be for other activities, including the Office of the Commissioner; the Office of Management; the Office of External Relations; the Office of Policy and Planning; and central services for these offices: Provided further, That funds may be transferred from one specified activity to another with the prior approval of the Committees on Appropriations of both Houses of Congress.

In addition, mammography user fees authorized by 42 U.S.C. 263b may be credited to this account, to remain available until expended.

In addition, export certification user fees authorized by 21 U.S.C. 381 may be credited to this account, to remain available until expended.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $7,000,000, to remain available until expended.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles, and the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, $98,386,000, including not to exceed $3,000 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $44,250,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: Provided, That this limitation shall not apply to expenses associated with receiverships: Provided further, That up to an additional 5 percent of the amount of this limitation may be expended for expenses associated with unforeseen termination applications, upon a finding of extraordinary circumstances by the Federal Credit Administration Board.

TITLE VII

GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the current fiscal year under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 320 passenger motor vehicles, of which 320 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Hereafter, funds appropriated by this or any other Act to the Department of Agriculture (excluding the Forest Service) shall be available for uniforms or allowances as authorized by law (5 U.S.C. 5901–5902).

SEC. 703. Hereafter, funds appropriated by this or any other Act to the Department of Agriculture (excluding the Forest Service) shall be available for employment pursuant to the second sentence of section 706(a) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2225) and 5 U.S.C. 3109.

SEC. 704. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, information technology infrastructure, fruit fly program, emerging plant pests, boll weevil program, low pathogen avian influenza program, up to $32,932,000 in animal health monitoring and surveillance for the animal identification system, up to $2,993,000 in the emergency management systems program for the vaccine bank, up to $1,000,000 for wildlife services methods development, up to $1,000,000 of the wildlife services operations program for aviation safety, and up to 25 percent of the screwworm program; Food Safety and Inspection Service, field automation and information management project; Cooperative State Research, Education, and Extension Service, funds for competitive research grants (7 U.S.C. 450i(b)), funds for the Research, Education, and Economics Information System, and funds for the Native American Institutions Endowment Fund; Farm Service Agency, salaries and expenses funds made available to county committees; Foreign Agricultural Service, middle-income country training program, and up to $2,000,000 of the Foreign Agricultural Service appropriation solely for the purpose of offsetting fluctuations in international currency exchange rates, subject to documentation by the Foreign Agricultural Service.

SEC. 705. Hereafter, the Secretary of Agriculture may transfer unobligated balances of discretionary funds appropriated by this or any other Act or other available unobligated discretionary balances of the Department of Agriculture to the Working Capital Fund for the acquisition of plant and capital equipment necessary for the delivery of financial, administrative, and information technology services of primary benefit to the agencies of the Department of Agriculture: Provided, That none of the funds made available by this Act or any other Act shall be transferred to the Working Capital Fund without the prior approval of the agency administrator: Provided further, That none of the funds transferred to the Working Capital Fund pursuant to this section shall be available for obligation without the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 707. Hereafter, not to exceed $50,000 of the funds appropriated by this or any other Act to the Department of Agriculture (excluding the Forest Service) shall be available to provide appropriate orientation and language training pursuant to section 606C of the Act of August 28, 1954 (7 U.S.C. 1766b).

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 709. None of the funds in this Act shall be available to pay indirect costs charged against competitive agricultural research, education, or extension grant awards issued by the Cooperative State Research, Education, and Extension Service that exceed 20 percent of total Federal funds provided under each award: Provided, That notwithstanding section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310), funds provided by this Act for grants awarded competitively by the Cooperative State Research, Education, and Extension Service shall be available to pay full allowable indirect costs for each grant awarded under section 9 of the Small Business Act (15 U.S.C. 638).

SEC. 710. Hereafter, loan levels provided in this or any other Act to the Department of Agriculture shall be considered estimates, not limitations.

SEC. 711. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in the current fiscal year shall remain available until expended to cover obligations made in the current fiscal year for the following accounts: the Rural Development Loan Fund program account, the Rural Telephone Bank program account, the Rural Electrification and Telecommunication Loans program account, and the Rural Housing Insurance Fund program account.

SEC. 712. Of the funds made available by this Act, not more than $1,800,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 713. None of the funds appropriated by this Act may be used to carry out section 410 of the Federal Meat Inspection Act (21 U.S.C. 679a) or section 30 of the Poultry Products Inspection Act (21 U.S.C. 471).

SEC. 714. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 715. None of the funds appropriated or otherwise made available to the Department of Agriculture shall be used to transmit or otherwise make available to any non-Department of

Agriculture employee questions or responses to questions that are a result of information requested for the appropriations hearing process.

SEC. 716. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board: Provided, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be transferred to the Office of the Chief Information Officer without the prior approval of the Committees on Appropriations of both Houses of Congress: Provided further, That none of the funds available to the Department of Agriculture for information technology shall be obligated for projects over $25,000 prior to receipt of written approval by the Chief Information Officer.

SEC. 717. (a) Hereafter, none of the funds appropriated by this or any other Act to the agencies funded by this Act, or provided from accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(b) Hereafter, none of the funds appropriated by this or any other Act to the agencies funded by this Act, or provided from accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(c) Hereafter, the Secretary of Agriculture, the Secretary of Health and Human Services, or the Chairman of the Commodity Futures Trading Commission shall notify the Committees on Appropriations of both Houses of Congress before implementing a program or activity not carried out during the previous fiscal year unless the program or activity is funded by this Act or specifically funded by any other Act.

SEC. 718. With the exception of funds needed to administer and conduct oversight of grants awarded and obligations incurred in prior fiscal years, none of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out the provisions of section 401 of Public Law 105–185, the Initiative for Future Agriculture and Food Systems (7 U.S.C. 7621).

SEC. 719. None of the funds appropriated by this or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the user fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2006 appropriations Act.

SEC. 720. None of the funds made available by this or any other Act may be used to close or relocate a State Rural Development office unless or until cost effectiveness and enhancement of program delivery have been determined.

SEC. 721. In addition to amounts otherwise appropriated or made available by this Act, $2,500,000 is appropriated for the purpose of providing Bill Emerson and Mickey Leland Hunger Fellowships, through the Congressional Hunger Center.

SEC. 722. Hereafter, notwithstanding section 412 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f), any balances available to carry out title III of such Act as of the date of enactment of this Act, and any recoveries and reimbursements that become available to carry out title III of such Act, may be used to carry out title II of such Act.

SEC. 723. Section 375(e)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j(e)(6)(B)) is amended by striking ''$27,998,000'' and inserting ''$29,998,000''.

SEC. 724. Notwithstanding any other provision of law, and until receipt of the decennial Census in the year 2010, the Secretary of Agriculture shall consider the City of Butte/Silverbow, Montana, Cleburne County, Arkansas, and the designated Census track areas for the Upper Kanawha Valley Enterprise Community, rural areas for purposes of eligibility for rural development programs.

SEC. 725. Notwithstanding any other provision of law, the Natural Resources Conservation Service may provide financial and technical assistance through the Watershed and Flood Prevention Operations program for the Matanuska River erosion control project in Alaska, Little Otter Creek project in Missouri, the Manoa Watershed project in Hawaii, the West Tarkio project in Iowa, the Steeple Run and West Branch DuPage River Watershed projects in DuPage County, Illinois, and the Coal Creek project in Utah.

SEC. 726. Hereafter, none of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this or any other appropriation Act.

SEC. 727. Notwithstanding any other provision of law, of the funds made available in this Act for competitive research grants (7 U.S.C. 450i(b)), the Secretary may use up to 20 percent of the amount provided to carry out a competitive grants program under the same terms and conditions as those provided in section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621).

SEC. 728. None of the funds appropriated or made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)).

SEC. 729. None of the funds made available to the Food and Drug Administration by this Act shall be used to close or relocate, or to plan to close or relocate, the Food and Drug Administration Division of Pharmaceutical Analysis in St. Louis, Missouri, outside the city or county limits of St. Louis, Missouri.

SEC. 730. None of the funds appropriated or made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out subtitle I of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009dd through dd–7).

SEC. 731. Hereafter, agencies and offices of the Department of Agriculture may utilize any unobligated salaries and expenses funds to reimburse the Office of the General Counsel for salaries and expenses of personnel, and for other related expenses, incurred in representing such agencies and offices in the resolution of complaints by employees or applicants for employment, and in cases and other matters pending before the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, or the Merit Systems Protection Board with the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 732. None of the funds appropriated or made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out section 6405 of Public Law 107–171 (7 U.S.C. 2655).

SEC. 733. Hereafter, the Agricultural Marketing Service and the Grain Inspection, Packers and Stockyards Administration, that have statutory authority to purchase interest bearing investments outside of the Treasury, are not required to establish obligations and outlays for those investments, provided those investments are insured by the Federal Deposit Insurance Corporation or are collateralized at the Federal Reserve with securities approved by the Federal Reserve, operating under the guidelines of the United States Department of the Treasury.

SEC. 734. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to enroll in excess of 150,000 acres in the calendar year 2006 wetlands reserve program as authorized by 16 U.S.C. 3837.

SEC. 735. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel who carry out an environmental quality incentives program authorized by chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) in excess of $1,017,000,000.

SEC. 736. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to expend the $23,000,000 made available by section 9006(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106(f)).

SEC. 737. With the exception of funds provided in fiscal year 2003, none of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to expend the $50,000,000 made available by section 601(j)(1)(A) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(j)(1)(A)).

SEC. 738. None of the funds made available in fiscal year 2006 or preceding fiscal years for programs authorized under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) in excess of $20,000,000 shall be used to reimburse the Commodity Credit Corporation for the release of eligible commodities under section 302(f)(2)(A) of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1): Provided, That any such funds made available to reimburse the Commodity Credit Corporation shall only be used pursuant to section 302(b)(2)(B)(i) of the Bill Emerson Humanitarian Trust Act.

SEC. 739. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to expend the $120,000,000 made available by section 6401(a) of Public Law 107–171.

SEC. 740. Notwithstanding subsections (c) and (e)(2) of section 313A of the Rural Electrification Act (7 U.S.C. 940c(c) and (e)(2)) in implementing section 313A of that Act, the Secretary shall, with the consent of the lender, structure the schedule for payment of the annual fee, not to

exceed an average of 30 basis points per year for the term of the loan, to ensure that sufficient funds are available to pay the subsidy costs for note guarantees under that section.

SEC. 741. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 2502 of Public Law 107–171 in excess of $47,000,000.

SEC. 742. Of the unobligated balances available in the Special Supplemental Nutrition Program for Women, Infants, and Children reserve account, $32,000,000 is hereby rescinded.

SEC. 743. Not more than $10,000,000 for fiscal year 2006 of the funds appropriated or otherwise made available by this or any other Act shall be used to carry out section 6029 of Public Law 107–171.

SEC. 744. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out a ground and surface water conservation program authorized by section 2301 of Public Law 107–171 in excess of $51,000,000.

SEC. 745. None of the funds made available by this Act may be used to issue a final rule in furtherance of, or otherwise implement, the proposed rule on cost-sharing for animal and plant health emergency programs of the Animal and Plant Health Inspection Service published on July 8, 2003 (Docket No. 02–062–1; 68 Fed. Reg. 40541).

SEC. 746. None of the funds made available in this Act may be used to study, complete a study of, or enter into a contract with a private party to carry out, without specific authorization in a subsequent Act of Congress, a competitive sourcing activity of the Secretary of Agriculture, including support personnel of the Department of Agriculture, relating to rural development or farm loan programs or for reimbursement of administrative costs under section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) to a State agency for which more than 10 percent of the costs (other than costs for issuance of benefits or nutrition education) are obtained under contract.

SEC. 747. Hereafter, notwithstanding any other provision of law, the Secretary of Agriculture may use appropriations available to the Secretary for activities authorized under sections 426–426c of title 7, United States Code, under this or any other Act, to enter into cooperative agreements, with a State, political subdivision, or agency thereof, a public or private agency, organization, or any other person, to lease aircraft if the Secretary determines that the objectives of the agreement will: (1) serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Animal and Plant Health Inspection Service, Wildlife Services; and (2) all parties will contribute resources to the accomplishment of these objectives; award of a cooperative agreement authorized by the Secretary may be made for an initial term not to exceed 5 years.

SEC. 748. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 9010 of Public Law 107–171 in excess of $60,000,000.

SEC. 749. Hereafter, agencies and offices of the Department of Agriculture may utilize any available discretionary funds to cover the costs of preparing, or contracting for the preparation of, final agency decisions regarding complaints of discrimination in employment or program activities arising within such agencies and offices.

SEC. 750. Funds made available under section 1240I and section 1241(a) of the Food Security Act of 1985 in the current fiscal year shall remain available until expended to cover obligations made in the current fiscal year, and are not available for new obligations.

SEC. 751. There is hereby appropriated $1,500,000, to remain available until expended, for the Denali Commission to address deficiencies in solid waste disposal sites which threaten to contaminate rural drinking water supplies.

SEC. 752. Notwithstanding any other provision of law—

(1)(A) the Alaska Department of Community and Economic Development shall be eligible to receive a water and waste disposal grant under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) in an amount that is equal to not more than 75 percent of the total cost of providing water and sewer service to the proposed hospital in the Matanuska-Susitna Borough, Alaska; and

(B) the Alaska Department of Community and Economic Development shall be allowed to pass the grant funds through to the local government entity that will provide water and sewer service to the hospital;

(2) or any percentage of cost limitation in current law or regulations, the construction projects known as the Tri-Valley Community Center addition in Healy, Alaska; the Cold Climate Housing Research Center in Fairbanks, Alaska; and the University of Alaska-Fairbanks Allied Health Learning Center skill labs/classrooms shall be eligible to receive Community Facilities grants in amounts that are equal to not more than 75 percent of the total facility costs: Provided, That for the purposes of this paragraph, the Cold Climate Housing Research Center is designated an ''essential community facility'' for rural Alaska;

(3) for any fiscal year and hereafter, in the case of a high cost isolated rural area in Alaska that is not connected to a road system, the maximum level for the single family housing assistance shall be 150 percent of the median household income level in the nonmetropolitan areas of the State and 115 percent of all other eligible areas of the State;

(4)(A) the Natural Resources Conservation Service shall provide financial and technical assistance through the Watershed and Flood Prevention Operations program to carry out the East Locust Creek Watershed Plan Revision in Missouri; and

(B) the Natural Resources Conservation Service is authorized to provide 100 percent of the engineering assistance and 75 percent cost share for construction cost of the project; and

(5) any former RUS borrower that has repaid or prepaid an insured, direct or guaranteed loan under the Rural Electrification Act, or any not-for-profit utility that is eligible to receive an insured or direct loan under such Act, shall be eligible for assistance under Section 313(b)(2)(B) of such Act in the same manner as a borrower under such Act.

SEC. 753. Hereafter, notwithstanding the provisions of the Consolidated Farm and Rural Development Act (including the associated regulations) governing the Community Facilities Program, the Secretary may allow all Community Facility Program facility borrowers and grantees to enter into contracts with not-for-profit third parties for services consistent with the requirements of the Program, grant, and/or loan: Provided, That the contracts protect the interests of the Government regarding cost, liability, maintenance, and administrative fees.

SEC. 754. Hereafter, notwithstanding any other provision of law, the Secretary of Agriculture is authorized to make funding and other assistance available through the emergency watershed protection program under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) to repair and prevent damage to non-Federal land in watersheds that have been impaired by fires initiated by the Federal Government and shall waive cost sharing requirements for the funding and assistance.

SEC. 755. None of the funds provided in this Act may be used for salaries and expenses to carry out any regulation or rule insofar as it would make ineligible for enrollment in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) land that is planted to hardwood trees as of the date of enactment of this Act and was enrolled in the conservation reserve program under a contract that expired prior to calendar year 2002.

SEC. 756. None of the funds made available under this Act shall be available to pay the administrative expenses of a State agency that, after the date of enactment of this Act, authorizes any new for-profit vendor(s) to transact food instruments under the Special Supplemental Nutrition Program for Women, Infants, and Children if it is expected that more than 50 percent of the annual revenue of the vendor from the sale of food items will be derived from the sale of supplemental foods that are obtained with WIC food instruments, except that the Secretary may approve the authorization of such a vendor if the approval is necessary to assure participant access to program benefits.

SEC. 757. The Secretary of Agriculture may use any unobligated carryover funds made available for any program administered by the Rural Utilities Service (not including funds made available under the heading ''Rural Community Advancement Program'' in any Act of appropriation) to carry out section 315 of the Rural Electrification Act of 1936 (7 U.S.C. 940e).

SEC. 758. There is hereby appropriated $1,000,000, to remain available until expended, to carry out provisions of section 751 of division A of Public Law 108–7.

SEC. 759. There is hereby appropriated $500,000 for a grant to Alaska Village Initiatives for the purpose of administering a private lands wildlife management program in Alaska.

SEC. 760. There is hereby appropriated $2,250,000, to remain available until expended, for a grant to the Wisconsin Federation of Cooperatives for pilot Wisconsin-Minnesota health care cooperative purchasing alliances.

SEC. 761. Hereafter, notwithstanding any other provision of law, effective with funds made available in fiscal year 2004 to States administering the Child and Adult Care Food Program, for the purpose of conducting audits of participating institutions, funds identified by the Secretary as having been unused during the initial fiscal year of availability may be recovered and reallocated by the Secretary: Provided, That States may use the reallocated funds until expended for the purpose of conducting audits of participating institutions.

SEC. 762. The Secretary of Agriculture is authorized and directed to quitclaim to the City of Elkhart, Kansas, all rights, title and interests of the United States in that tract of land comprising 151.7 acres, more or less, located in Morton County, Kansas, and more specifically described in a deed dated March 11, 1958, from the United States of America to the City of Elkhart, State of Kansas, and filed of record April 4, 1958 at Book 34 at Page 520 in the office of the Register of Deeds of Morton County, Kansas.

SEC. 763. There is hereby appropriated $5,000,000 to carry out the Healthy Forests Reserve Program authorized under Title V of Public Law 108–148 (16 U.S.C. 6571–6578).

SEC. 764. None of the funds provided in this Act may be used for salaries and expenses to draft or implement any regulation or rule insofar as it would require recertification of rural status for each electric and telecommunications borrower for the Rural Electrification and Telecommunication Loans program.

SEC. 765. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out a Biomass Research and Development Program in excess of $12,000,000, as authorized by Public Law 106–224 (7 U.S.C. 7624 note).

SEC. 766. The Rural Electrification Act of 1936 is amended by inserting after section 315 (7 U.S.C. 940e) the following:

''SEC. 316. EXTENSION OF PERIOD OF EXISTING GUARANTEE.

''(a) IN GENERAL.—Subject to the limitations in this section and the provisions of the Federal Credit Reform Act of 1990, as amended, a borrower of a loan made by the Federal Financing Bank and guaranteed under this Act may request an extension of the final maturity of the outstanding principal balance of such loan or any loan advance thereunder. If the Secretary and the Federal Financing Bank approve such an extension, then the period of the existing guarantee shall also be considered extended.

''(b) LIMITATIONS.—

''(1) FEASIBILITY AND SECURITY.—Extensions under this section shall not be made unless the Secretary first finds and certifies that, after giving effect to the extension, in his judgment the security for all loans to the borrower made or guaranteed under this Act is reasonably adequate and that all such loans will be repaid within the time agreed.

''(2) EXTENSION OF USEFUL LIFE OR COLLATERAL.—Extensions under this section shall not be granted unless the borrower first submits with its request either—

''(A) evidence satisfactory to the Secretary that a Federal or State agency with jurisdiction and expertise has made an official determination, such as through a licensing proceeding, extending the useful life of a generating plant or transmission line pledged as collateral to or beyond the new final maturity date being requested by the borrower, or

''(B) a certificate from an independent licensed engineer concluding, on the basis of a thorough engineering analysis satisfactory to the Secretary, that the useful life of the generating plant or transmission line pledged as collateral extends to or beyond the new final maturity date being requested by the borrower.

''(3) AMOUNT ELIGIBLE FOR EXTENSION.—Extensions under this section shall not be granted if the principal balance extended exceeds the appraised value of the generating plant or transmission line referred to in subsection paragraph (2).

''(4) PERIOD OF EXTENSION.—Extensions under this section shall in no case result in a final maturity greater than 55 years from the time of original disbursement and shall in no case result in a final maturity greater than the useful life of the plant.

''(5) NUMBER OF EXTENSIONS.—Extensions under this section shall not be granted more than once per loan advance.

''(c) FEES.—

''(1) IN GENERAL.—A borrower that receives an extension under this section shall pay a fee to the Secretary which shall be credited to the Rural Electrification and Telecommunications Loans Program account. Such fees shall remain available without fiscal year limitation to pay the modification costs for extensions.

''(2) AMOUNT.—The amount of the fee paid shall be equal to the modification cost, calculated in accordance with section 502 of the Federal Credit Reform Act of 1990, as amended, of such extension.

''(3) PAYMENT.—The borrower shall pay the fee required under this section at the time the existing guarantee is extended by making a payment in the amount of the required fee.''.

SEC. 767. Notwithstanding any other provision of law, none of the funds provided for in this or any other Act may be used in this and each fiscal year hereafter for the review, clearance, or approval for sale in the United States of any contact lens unless the manufacturer certifies that it makes any contact lens it produces, markets, distributes, or sells available in a commercially reasonable and non-discriminatory manner directly to and generally within all alternative channels of distribution: Provided, That for the purposes of this section, the term 'manufacturer' includes the manufacturer and its parents, subsidiaries, affiliates, successors and assigns, and 'alternative channels of distribution' means any mail order company, Internet retailer, pharmacy, buying club, department store, mass merchandise outlet or other appropriate distribution alternative without regard to whether it is associated with a prescriber: Provided further, That nothing in this section shall be interpreted as waiving any obligation of a seller under 15 U.S.C. 7603: Provided further, That to facilitate compliance with this section, 15 U.S.C. 7605 is amended by inserting after the period: ''A manufacturer shall make any contact lens it produces, markets, distributes or sells available in a commercially reasonable and nondiscriminatory manner directly to and generally within all alternative channels of distribution; provided that, for the purposes of this section, the term 'alternative channels of distribution' means any mail order company, Internet retailer, pharmacy, buying club, department store, mass merchandise outlet or other appropriate distribution alternative without regard to whether it is associated with a prescriber; the term 'manufacturer' includes the manufacturer and its parents, subsidiaries, affiliates, successors and assigns; and any rule prescribed under this section shall take effect not later than 60 days after the date of enactment.''

SEC. 768. (a) IN GENERAL.—Hereafter, the Secretary of Health and Human Services, on behalf of the United States may, whenever the Secretary deems desirable, relinquish to the State of Arkansas all or part of the jurisdiction of the United States over the lands and properties encompassing the Jefferson Labs campus in the State of Arkansas that are under the supervision or control of the Secretary.

(b) TERMS.—Relinquishment of jurisdiction under this section may be accomplished, under terms and conditions that the Secretary deems advisable,

(1) by filing with the Governor of the State of Arkansas a notice of relinquishment to take effect upon acceptance thereof; or

(2) as the laws of such State may otherwise provide.

(c) DEFINITION.—In this section, the term ''Jefferson Labs campus'' means the lands and properties of the National Center for Toxicological Research and the Arkansas Regional Laboratory.

SEC. 769. Section 204(b)(3)(A) of the Child Nutrition and WIC Reauthorization Act of 2004 (118 Stat. 781; 42 U.S.C. 1751 note) is amended by striking ''July 1, 2006'' and inserting ''October 1, 2005''.

SEC. 770. (a) Section 18(f)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)(1)(B)) is amended—

(1) by striking ''April 2004'' and inserting ''June 2005''; and

(2) in clause (ii), by striking ''66.67'' and inserting ''75''.

(b) The amendments made by subsection (a) take effect on January 1, 2006.

SEC. 771. There is hereby appropriated $1,250,000 to the National Agricultural Imagery Program to acquire one meter natural color digital ortho-imagery of the entire state of Utah.

SEC. 772. Notwithstanding any other provision of law, for eligibility to participate in the Environmental Quality Incentives Program (EQIP), a producer is deemed to have an interest in a farming or ranching operation whether the source of income for that operation is derived from crops or livestock owned by that producer, or owned by another and raised by that producer.

SEC. 773. None of the funds in this Act may be used to retire more than 5 percent of the Class A stock of the Rural Telephone Bank, except in the event of liquidation or dissolution of the telephone bank during fiscal year 2006, pursuant to section 411 of the Rural Electrification Act of 1936, as amended, or to maintain any account or subaccount within the accounting records of the Rural Telephone Bank the creation of which has not specifically been authorized by statute: Provided, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this Act may be used to transfer to the Treasury or to the Federal Financing Bank any unobligated balance of the Rural Telephone Bank telephone liquidating account which is in excess of current requirements and such balance shall receive interest as set forth for financial accounts in section 505(c) of the Federal Credit Reform Act of 1990.

SEC. 774. There is hereby appropriated $2,000,000 to carry out Section 120 of Public Law 108–265 in Utah and Wisconsin.

SEC. 775. There is hereby appropriated $700,000 to provide administrative support for a world food hunger organization: Provided, That none of the funds may be used for a monetary award to an individual.

SEC. 776. Notwithstanding any other provision of law, the Secretary of Agriculture may consider the Municipality of Carolina, Puerto Rico, as meeting the eligibility requirements for loans and grants programs in the Rural Development mission area.

SEC. 777. It is the sense of the Senate that the United States Government should not permit the importation into the United States of beef from Japan until the Government of Japan takes appropriate actions to permit the importation into Japan of beef from the United States.

SEC. 778. None of the funds made available under this Act shall be used by the Secretary of Agriculture for the purpose of developing a final rule relating to the proposed rule entitled ''Importation of Whole Cuts of Boneless Beef from Japan'', dated August 18, 2005 (70 Fed. Reg. 48494), to allow the importation of beef from Japan, unless the President certifies to Congress that Japan has granted open access to Japanese markets for beef and beef products produced in the United States.

SEC. 779. (a) Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

''(M) MINIMUM MILK PRICES FOR HANDLERS.—

''(i) APPLICATION OF MINIMUM PRICE REQUIREMENTS.—Notwithstanding any other provision of this section, a milk handler described in clause (ii) shall be subject to all of the minimum and uniform price requirements of a Federal milk marketing order issued pursuant to this section applicable to the county in which the plant of the handler is located, at Federal order class prices, if the handler has packaged fluid milk product route dispositions, or sales of packaged fluid milk products to other plants, in a marketing area located in a State that requires handlers to pay minimum prices for raw milk purchases.

''(ii) COVERED MILK HANDLERS.—Except as provided in clause (iv), clause (i) applies to a handler of Class I milk products (including a producer-handler or producer operating as a handler) that—

''(I) operates a plant that is located within the boundaries of a Federal order milk marketing area (as those boundaries are in effect on the date of enactment of this subparagraph);

''(II) has packaged fluid milk product route dispositions, or sales of packaged fluid milk products to other plants, in a milk marketing area located in a State that requires handlers to pay minimum prices for raw milk purchases; and

''(III) is not otherwise obligated by a Federal milk marketing order, or a regulated milk pricing plan operated by a State, to pay minimum class prices for the raw milk that is used for the milk dispositions or sales.

''(iii) OBLIGATION TO PAY MINIMUM CLASS PRICES.—For the purpose of clause (ii)(III), the Secretary may not consider a handler of Class I milk products to be obligated by a Federal milk marketing order to pay minimum class prices for raw milk unless the handler operates the plant as a fully regulated fluid milk distributing plant under a Federal milk marketing order.

''(iv) CERTAIN HANDLERS EXEMPTED.—Clause (i) does not apply to—

''(I) a handler (otherwise described in clause (ii)) that operates a nonpool plant (as defined in section 1000.8(e) of title 7, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph));

''(II) a producer-handler (otherwise described in clause (ii)) for any month during which the producer-handler has route dispositions, and sales to other plants, of packaged fluid milk products equaling less than 3,000,000 pounds of milk; or

''(III) a handler (otherwise described in clause (ii)) for any month during which—

''(aa) less than 25 percent of the total quantity of fluid milk products physically received at the plant of the handler (excluding concentrated milk received from another plant by agreement for other than Class I use) is disposed of as route disposition or is transferred in the form of packaged fluid milk products to other plants; or

''(bb) less than 25 percent in aggregate of the route disposition or transfers are in a marketing area or areas located in 1 or more States that require handlers to pay minimum prices for raw milk purchases.

''(N) EXEMPTION FOR CERTAIN MILK HANDLERS.—Notwithstanding any other provision of this section, no handler with distribution of Class I milk products in the Arizona-Las Vegas marketing area (Order No. 131) shall be exempt during any month from any minimum milk price requirement established by the Secretary under this subsection if the total distribution of Class I products during the preceding month of any such handler's own farm production that exceeds 3,000,000 pounds.''.

(b) Section 8c(11) of the Agricultural Adjustment Act (7 U.S.C. 608c(11)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in subparagraph (C), by striking the last sentence; and

(2) by adding at the end the following:

''(D) EXCLUSION OF NEVADA FROM FEDERAL MILK MARKETING ORDERS.—In the case of milk and its products, no county or other political subdivision located in the State of Nevada shall be within a marketing area covered by any order issued under this section.''.

(c) Notwithstanding any other provision of this section or the amendments made by this section, a milk handler (including a producer-handler or producer operating as a handler) that is subject to regulation under this section or an amendment made by this section shall comply with any requirement under section 1000.27 of title 7, Code of Federal Regulations (or a successor regulation) relating to responsibility of handlers for records or facilities.

(d)(1) This section and the amendments made by this section take effect on the first day of the first month beginning more than 15 days after the date of enactment of this Act.

(2) To accomplish the expedited implementation schedule for the amendment made by subsection (a), effective on the date of enactment of this Act, the Secretary of Agriculture shall ensure that the pool distributing plant provisions of each Federal milk marketing order issued under section 8c(5)(B) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)(B)), reenacted with amendments by the Agricultural Marketing Agreement of 1937, provides that a handler described in section 8c(5)(M) of the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement of 1937 (as added by subsection (a))), will be fully regulated by the order in which the distributing plant of the handler is located.

(3) Implementation of this section and the amendments made by this section shall not be subject to a referendum under section 8c(19) of the Agricultural Adjustment Act (7 U.S.C. 608c(19)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

SEC. 780. (a) Subject to subsection (b), none of the funds made available in this Act may be used to—

(1) grant a waiver of a financial conflict of interest requirement pursuant to section 505(n)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(n)(4)) for any voting member of an advisory committee or panel of the Food and Drug Administration; or

(2) make a certification under section 208(b)(3) of title 18, United States Code, for any such voting member.

(b) Subsection (a) shall not apply to a waiver or certification if—

(1) not later than 15 days prior to a meeting of an advisory committee or panel to which such waiver or certification applies, the Secretary of Health and Human Services discloses on the Internet website of the Food and Drug Administration—

(A) the nature of the conflict of interest at issue; and

(B) the nature and basis of such waiver or certification (other than information exempted from disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act)); or

(2) in the case of a conflict of interest that becomes known to the Secretary less than 15 days prior to a meeting to which such waiver or certification applies, the Secretary shall make such public disclosure as soon as possible thereafter, but in no event later than the date of such meeting.

(c) None of the funds made available in this Act may be used to make a new appointment to an advisory committee or panel of the Food and Drug Administration unless the Commissioner of Food and Drugs submits a confidential report to the Inspector General of the Department of Health and Human Services of the efforts made to identify qualified persons for such appointment with minimal or no potential conflicts of interest.

SEC. 781. (a) Hereafter, none of the funds made available by this Act or any other Act may be used to publish, disseminate, or distribute Agriculture Information Bulletin Number 787.

(b) Of the funds provided to the Economic Research Service, the Secretary of Agriculture shall enter into an agreement with the National Academy of Sciences to conduct a comprehensive report on the economic development and current status of the sheep industry in the United States.

SEC. 782. The Secretary of Agriculture may establish a demonstration intermediate relending program for the construction and rehabilitation of housing for the Mississippi Band of Choctaw Indians: Provided, That the interest rate for direct loans shall be 1 percent: Provided further, That no later than one year after the establishment of this program the Secretary shall provide the Committees on Appropriations with a report providing information on the program structure, management, and general demographic information on the loan recipients.

SEC. 783. None of the funds made available by this Act may be used to provide funding to a research facility that purchases animals from a dealer that holds a Class B license under the Animal Welfare Act (7 U.S.C. 2131 et seq.).

SEC. 784. None of the funds made available by this Act may be used to approve for human consumption under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) any cattle, sheep, swine, or goats, or horses, mules, or other equines that are unable to stand or walk unassisted at a slaughtering, packing, meat-canning, rendering, or similar establishment subject to inspection at the point of examination and inspection under section 3(a) of that Act (21 U.S.C. 603(a)).

SEC. 785. None of the funds made available by this or any other Act may be used to close or relocate a county or local Farm Service Agency office unless or until the Secretary of Agriculture has determined the cost effectiveness and enhancement of program delivery of the closure or relocation, and report to the House and Senate Committees on Agriculture and Appropriations.

SEC. 786. None of the funds made available in this Act may be used to pay the salaries or expenses of personnel to inspect horses under section 3 of the Federal Meat Inspection Act (21 U.S.C. 603) or under the guidelines issued under section 903 the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note; Public Law 104–127).

SEC. 787. Section 508(a)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(4)(B)) is amended by inserting ''or similar commodities'' after ''the commodity''.

SEC. 788. 90 days before initiating any structural change in a mission area of the Department, the Secretary of Agriculture shall provide notice of the change to the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 789. (a) Notwithstanding subtitles B and C of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.), during fiscal year 2006, the National Dairy Promotion and Research Board may obligate and expend funds for any activity to improve the environment and public health.

(b) The Secretary of Agriculture shall review the impact of any expenditures under subsection (a) and include the review in the 2007 report of the Secretary to Congress on the dairy promotion program established under subtitle B of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.).

SEC. 790. Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended by adding at the end the following: ''(C) It is not a violation of clauses (ii) or (iii) of subparagraph (A), or of clause (iv) of subparagraph (A) except where a person encourages or induces an alien to come to or enter the United States, for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.''

SEC. 791. The Federal facility located at the South Mississippi Branch Experiment Station in Poplarville, Mississippi, and known as the ''Southern Horticultural Laboratory'', shall be known and designated as the ''Thad Cochran Southern Horticultural Laboratory'': Provided, That any reference in law, map, regulation, document, paper, or other record of the United States to such Federal facility shall be deemed to be a reference to the ''Thad Cochran Southern Horticultural Laboratory''.

SEC. 792. As soon as practicable after the Agricultural Research Service operations at the Western Cotton Research Laboratory located at 4135 East Broadway Road in Phoenix, Arizona, have ceased, the Secretary of Agriculture may convey, without consideration, to the Arizona Cotton Growers Association and Supima all right, title, and interest of the United States in and to the real property at that location, including improvements.

SEC. 793. The Secretary of Agriculture shall—

(1) as soon as practicable after the date of enactment of this Act, conduct an evaluation of any impacts of the court decision in Harvey v. Veneman, 396 F.3d 28 (1st Cir. Me. 2005); and

(2) not later than 90 days after the date of enactment of this Act, submit to Congress a report that—

(A) describes the results of the evaluation conducted under paragraph (1);

(B) includes a determination by the Secretary on whether restoring the National Organic Program, as in effect on the day before the date of the court decision described in paragraph (1),

would adversely affect organic farmers, organic food processors, and consumers;

(C) analyzes issues regarding the use of synthetic ingredients in processing and handling;

(D) analyzes the utility of expedited petitions for commercially unavailable agricultural commodities and products; and

(E) considers the use of crops and forage from land included in the organic system plan of dairy farms that are in the third year of organic management.

SEC. 794. (a) Not later than 90 days after the date of enactment of this Act, the Administrator of the Animal and Plant Health Inspection Service (referred to in this section as the ''Administrator'') shall publish in the Federal Register uniform methods and rules for addressing chronic wasting disease.

(b) If the Administrator does not publish the uniform methods and rules by the deadline specified in subsection (a), not later than 30 days after the deadline and every 30 days thereafter until the uniform methods and rules are published in accordance with that subsection, the Administrator shall submit to Congress a report that—

(1) describes the status of the uniform methods and rules; and

(2) provides an estimated completion date for the uniform methods and rules.

SEC. 795. (a) In carrying out a livestock assistance, compensation, or feed program, the Secretary of Agriculture shall include horses within the definition of ''livestock'' covered by the program.

(b)(1) Section 602(2) of the Agricultural Act of 1949 (7 U.S.C. 1471(2)) is amended—

(A) by inserting ''horses'', after ''bison''; and

(B) by striking ''equine animals used for food or in the production of food,''.

(2) Section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51) is amended by inserting ''(including losses to elk, reindeer, bison, and horses)'' after ''livestock losses''.

(3) Section 10104(a) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1472(a)) is amended by striking ''and bison'' and inserting ''bison, and horses''.

(4) Section 203(d)(2) of the Agricultural Assistance Act of 2003 (Public Law 108–7; 117 Stat. 541) is amended by striking ''and bison'' and inserting ''bison, and horses''.

(c)(1) This section and the amendments made by this section apply to losses resulting from a disaster that occurs on or after July 28, 2005.

(2) This section and the amendments made by this section do not apply to losses resulting from a disaster that occurred before July 28, 2005.

SEC. 796. With respect to the sale of the Thermo Pressed Laminates building in Klamath Falls, Oregon, the Secretary of Agriculture may allow the Klamath County Economic Development Corporation to establish a revolving economic development loan fund with the funds that otherwise would be required to be repaid to the Secretary in accordance with the rural business enterprise grant under section 310B(c)(1)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)).

SEC. 797. SENSE OF THE SENATE.—(a) FINDINGS.—The Senate finds the following:

(1) In a time of national catastrophe, it is the responsibility of Congress and the Executive Branch to take quick and decisive action to help those in need.

(2) The size, scope, and complexity of Hurricane Katrina are unprecedented, and the emergency response and long-term recovery efforts will be extensive and require significant resources.

(3) It is the responsibility of Congress and the Executive Branch to ensure the financial stability of the nation by being good stewards of Americans' hard-earned tax dollars.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any funding directive contained in this Act, or its accompanying report, that is not specifically authorized in any Federal law as of the date of enactment of this section, or Act or resolution passed by the Senate during the 1st Session of the 109th Congress prior to such date, or proposed in pursuance to an estimate submitted in accordance with law, that is for the benefit of an identifiable program, project, activity, entity, or jurisdiction and is not directly related to the impact of Hurricane Katrina, may be redirected to recovery efforts if the appropriate head of an agency or department determines, after consultation with appropriate Congressional Committees, that the funding directive is not of national significance or is not in the public interest.

SEC. 798. (a) The Senate finds the following:

(1) Research and development have been critical components of the prosperity of the United States.

(2) The United States is entering an increasingly competitive world in the 21st century.

(3) The National Academy of Sciences has found that public agricultural research and development expenditures in the United States were the lowest of any developed country in the world.

(4) The Nation needs to ensure that public spending for agricultural research is commensurate with the importance of agriculture to the long-term economic health of the Nation.

(5) Research and development is critical to ensuring that American agriculture remains strong and vital in the coming decades.

(b) It is the sense of the Senate that, in order for the United States to remain competitive, the President and the Department of Agriculture should increase public sector funding of agricultural research and development.

SEC. 799. It is the sense of the Senate that—

(1) the Senate—

(A) encourages expanded efforts to alleviate hunger throughout developing countries; and

(B) pledges to continue to support international hunger relief efforts;

(2) the United States Government should use financial and diplomatic resources to work with other donors to ensure that food aid programs receive all necessary funding and supplies; and

(3) food aid should be provided in conjunction with measures to alleviate hunger, malnutrition, and poverty.

SEC. 800. Amounts made available for the Plant Materials Center in Fallon, Nevada, under the heading ''CONSERVATION OPERATIONS'' under the heading ''NATURAL RESOURCES CONSERVATION SERVICE'' of title II of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2823) shall remain available until expended.

SEC. 801. Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture, in cooperation with the Secretary of Energy, shall provide to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report that describes the impact of increased prices of gas, natural gas, and diesel on agricultural producers, ranchers, and rural communities.

SEC. 802. The Secretary of Agriculture (referred to in this section as the ''Secretary'') shall prepare a report for submission by the President to Congress, along with the fiscal year 2007 budget request under section 1105 of title 31, United States Code, that—

(1) identifies measures to address bark beetle infestation and the impacts of bark beetle infestation as the first priority for assistance under the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.);

(2) describes activities that will be conducted by the Secretary to address bark beetle infestations and the impacts of bark beetle infestations;

(3) describes the financial and technical resources that will be dedicated by the Secretary to measures to address bark beetle infestations and the impacts of the infestations; and

(4) describes the manner in which the Secretary will coordinate with the Secretary of the Interior and State and local governments in conducting the activities under paragraph (2).

SEC. 803. Any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying H.R. 2744 shall also be included in the conference report or joint statement accompanying H.R. 2744 in order to be considered as having been approved by both Houses of Congress.

SEC. 804. (a) Congress makes the following findings:

(1) Consumers need clear and consistent information about the risks associated with exposure to the sun, and the protection offered by over-the-counter sunscreen products.

(2) The Food and Drug Administration (referred to in this section as the ''FDA'') began developing a monograph for over-the-counter sunscreen products in 1978.

(3) In 2002, after 23 years, the FDA issued the final monograph for such sunscreen products.

(4) One of the most critical aspects of sunscreen is how to measure protection against UVA rays, which cause skin cancer.

(5) The final sunscreen monograph failed to address this critical aspect and, accordingly, the monograph was stayed shortly after being issued until issuance of a comprehensive monograph.

(6) Skin cancer rates continue to rise, especially in younger adults and women.

(7) Pursuant to section 751 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379r), a Federal rule on sunscreen labeling would preempt any related State labeling requirements.

(8) The absence of a Federal rule could lead to a patchwork of State labeling requirements that would be confusing to consumers and unnecessarily burdensome to manufacturers.

(b) It is the sense of Congress that the FDA should, not later than one year after the date of enactment of this Act, issue a comprehensive final monograph for over-the-counter sunscreen products, including UVA and UVB labeling requirements, in order to provide consumers with all the necessary information regarding the dangers of skin cancer and the importance of wearing sunscreen.

This Act may be cited as the ''Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006''.

MILITARY CONSTRUCTION AND VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

On Thursday, September 22, 2005, the Senate passed H.R. 2528, as amended as follows:

H.R. 2528

Resolved, That the bill from the House of Representatives (H.R. 2528) entitled ''An Act 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.'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated 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, namely:

TITLE I—MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and

real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $1,640,641,000, to remain available until September 30, 2010: Provided, That of this amount, not to exceed $179,343,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: Provided further, That of the amount provided for Military Construction, Army, $8,900,000 shall be available for Phase 1a of a Permanent Party Barracks at Fort Leonard Wood, Missouri, and $3,150,000 shall be available for an Airfield Fire Station at Fort Sill, Oklahoma.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

(INCLUDING RESCISSION OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy and Marine Corps as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,045,882,000, to remain available until September 30, 2010: Provided, That of this amount, not to exceed $32,524,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: Provided further, That of the funds appropriated for ''Military Construction, Navy'' under Public Law 108–324, $92,354,000 are hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,209,128,000, to remain available until September 30, 2010: Provided, That of this amount, not to exceed $83,626,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: Provided further, That of the amount provided for Military Construction, Air Force, $5,721,000 shall be available for a B–2 Conventional Munitions Storage Facility at Whiteman Air Force Base, Missouri, and $14,000,000 for Phase 1 of Force Protection Enhancement at Vance Air Force Base, Oklahoma.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $1,072,165,000, to remain available until September 30, 2010: Provided, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided further, That of the amount appropriated, not to exceed $133,120,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $467,146,000, to remain available until September 30, 2010.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $279,156,000, to remain available until September 30, 2010.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $136,077,000, to remain available until September 30, 2010.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $46,676,000, to remain available until September 30, 2010.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $89,260,000, to remain available until September 30, 2010.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized by section 2806 of title 10, United States Code, and Military Construction Authorization Acts, $206,858,000, to remain available until expended.

FAMILY HOUSING CONSTRUCTION, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $549,636,000, to remain available until September 30, 2010.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $812,993,000.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $218,942,000, to remain available until September 30, 2010.

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $593,660,000.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $1,142,622,000, to remain available until September 30, 2010.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $766,939,000.

FAMILY HOUSING OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, $46,391,000.

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

For the Department of Defense Family Housing Improvement Fund, $2,500,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing and supporting facilities.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990

For deposit into the Department of Defense Base Closure Account 1990, established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. section 2687 note), $377,827,000, to remain available until expended.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. section 2687 note), $1,504,466,000, to remain available until expended: Provided, That these funds may not be obligated or expended until the Secretary of Defense submits to the congressional defense committees and receives approval of a report describing the specific programs, projects, and activities for which such funds are to be obligated.

GENERAL PROVISIONS

SEC. 101. None of the funds made available in this title shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds made available in this title shall be available for hire of passenger motor vehicles.

SEC. 103. Funds made available in this title may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds made available in this title may be used to begin construction of

new bases in the United States for which specific appropriations have not been made.

SEC. 105. None of the funds made available in this title shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or the designee of the Attorney General; (3) where the estimated value is less than $25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds made available in this title shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriations Acts.

SEC. 107. None of the funds made available in this title for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 108. None of the funds made available in this title may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds made available in this title may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds made available in this title may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 111. None of the funds made available in this title may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds made available in this title for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: Provided, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: Provided further, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

SEC. 113. The Secretary of Defense shall inform the appropriate committees of both Houses of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

SEC. 114. Not more than 20 percent of the funds made available in this title which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds made available to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were made available if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 118. The Secretary of Defense shall provide the Committees on Appropriations of both Houses of Congress with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Sea to assume a greater share of the common defense burden of such nations and the United States.

(TRANSFER OF FUNDS)

SEC. 119. In addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. section 2687 note), to be merged with, and to be available for the same purposes and the same time period as that account.

(TRANSFER OF FUNDS)

SEC. 120. Subject to 30 days prior notification to the Committees on Appropriations of both Houses of Congress, such additional amounts as may be determined by the Secretary of Defense may be transferred to: (1) the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in ''Family Housing'' accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund; or (2) the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in ''Military Construction'' accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: Provided, That appropriations made available to the Funds shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.

SEC. 121. None of the funds made available in this title may be obligated for Partnership for Peace Programs in the New Independent States of the former Soviet Union.

SEC. 122. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the Committees on Appropriations of both Houses of Congress the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(TRANSFER OF FUNDS)

SEC. 123. In addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. section 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

SEC. 124. Notwithstanding this or any other provision of law, funds made available in this title for operation and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: Provided, That not more than $35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days prior notification to the Committees on Appropriations of both Houses of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: Provided further, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations of both Houses of Congress all operation and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

SEC. 125. None of the funds made available in this title may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in this Act, or any other appropriations Act.

SEC. 126. None of the funds made available in this title under the heading ''North Atlantic Treaty Organization Security Investment Program'', and no funds appropriated for any fiscal year before fiscal year 2006 for that program that remain available for obligation, may be obligated or expended for the conduct of studies of missile defense.

SEC. 127. Amounts contained in the Ford Island Improvement Account established by subsection (h) of section 2814 of title 10, United States Code, are appropriated and shall be available until expended for the purposes specified in subsection (i)(1) of such section or until transferred pursuant to subsection (i)(3) of such section.

SEC. 128. None of the funds made available in this title, or in any Act making appropriations for military construction which remain available for obligation, may be obligated or expended to carry out a military construction, land acquisition, or family housing project at or for a military installation approved for closure, or at a military installation for the purposes of supporting a function that has been approved for realignment to another installation, in 2005

under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. section 2687 note), unless the Secretary of Defense certifies that the cost to the United States of carrying out such project would be less than the cost to the United States of cancelling such project, or in the case of projects having multi-agency use, that another Government agency has indicated it will assume ownership of the completed project, and the Secretary of Defense may not transfer funds made available for such a military construction project, land acquisition, or family housing project to another account or use such funds for another purpose or project without the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 129. Unless stated otherwise, all reports and notifications required by this title shall be submitted to the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives and the Subcommittee on Military Construction and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate.

SEC. 130. Of the amount appropriated by this title under the heading ''MILITARY CONSTRUCTION, AIR NATIONAL GUARD'' and available for planning and design, $1,440,000 shall be available for planning and design for a replacement C–130 maintenance hangar at Air National Guard New Castle County Airport, Delaware.

SEC. 131. (a) Of the amount appropriated by this title under the heading ''MILITARY CONSTRUCTION, ARMY'', $4,550,000 shall be made available for the construction of a military police complex at Fort Gordon, Georgia.

(b) The amount appropriated by this title under the heading ''MILITARY CONSTRUCTION, ARMY'' and available for Fort Gillem, Georgia, is hereby decreased by $4,550,000.

SEC. 132. (a) The amount appropriated by this title under the heading ''DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990'' is hereby increased by $25,000,000.

(b) The amount appropriated by this title under the heading ''DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005'' is hereby decreased by $25,000,000.

TITLE II—DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by law (38 U.S.C. 107, chapters 11, 13, 18, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, the Reinstated Entitlement Program for Survivors, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of article IV of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 540 et seq.) and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $33,412,879,000, to remain available until expended: Provided, That not to exceed $23,491,000 of the amount appropriated under this heading shall be reimbursed to ''General operating expenses'' and ''Medical administration'' for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, and in the Veterans' Benefits Act of 1992 (38 U.S.C. chapters 51, 53, and 55), the funding source for which is specifically provided as the ''Compensation and pensions'' appropriation: Provided further, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to ''Medical care collections fund'' to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61), $3,214,246,000, to remain available until expended: Provided, That expenses for rehabilitation program services and assistance which the Secretary is authorized to provide under section 3104(a) of title 38, United States Code, other than under subsection (a)(1), (2), (5), and (11) of that section, shall be charged to this account.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by title 38, United States Code, chapter 19; 70 Stat. 887; 72 Stat. 487, $45,907,000, to remain available until expended.

VETERANS HOUSING BENEFIT PROGRAM FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by title 38, United States Code, chapter 37: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That during fiscal year 2006, within the resources available, not to exceed $500,000 in gross obligations for direct loans are authorized for specially adapted housing loans.

For administrative expenses to carry out the direct and guaranteed loan programs, $153,575,000, which may be transferred to and merged with the appropriation for ''General operating expenses''.

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $53,000, as authorized by title 38, United States Code, chapter 31: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That funds made available under this heading are available to subsidize gross obligations for the principal amount of direct loans not to exceed $4,242,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $305,000, which may be transferred to and merged with the appropriation for ''General operating expenses''.

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by title 38, United States Code, chapter 37, subchapter V, $580,000, which may be transferred to and merged with the appropriation for ''General operating expenses'': Provided, That no new loans in excess of $30,000,000 may be made in fiscal year 2006.

GUARANTEED TRANSITIONAL HOUSING LOANS FOR HOMELESS VETERANS PROGRAM ACCOUNT

For the administrative expenses to carry out the guaranteed transitional housing loan program authorized by title 38, United States Code, chapter 37, subchapter VI, not to exceed $750,000 of the amounts appropriated by this Act for ''General operating expenses'' and ''Medical administration'' may be expended.

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans described in paragraphs (1) through (8) of section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs and including medical supplies and equipment and salaries and expenses of healthcare employees hired under title 38, United States Code, and aid to State homes as authorized by section 1741 of title 38, United States Code; $23,308,011,000, plus reimbursements, of which $1,977,000,000 are designated as an emergency requirement pursuant to section 402 of House Concurrent Resolution 95 (109th Congress), the fiscal year 2006 budget resolution: Provided further, That of the emergency funds provided under this heading, the Department of Veterans Affairs shall submit for approval by the Committees on Appropriations of both Houses of Congress, a financial plan outlining how the emergency funds will be obligated: Provided further, That the Department of Veterans Affairs shall include these emergency funds in their base request for the fiscal year 2007 budget submission: Provided further, That of the funds made available under this heading, not to exceed $1,500,000,000 shall be available until September 30, 2007: Provided further, That notwithstanding any other provision of law, the Secretary of Veterans Affairs shall establish a priority for treatment for veterans who are service-connected disabled, lower income, or have special needs: Provided further, That notwithstanding any other provision of law, the Secretary of Veterans Affairs shall give priority funding for the provision of basic medical benefits to veterans in enrollment priority groups 1 through 6: Provided further, That notwithstanding any other provision of law, the Secretary of Veterans Affairs may authorize the dispensing of prescription drugs from Veterans Health Administration facilities to enrolled veterans with privately written prescriptions based on requirements established by the Secretary: Provided further, That the implementation of the program described in the previous proviso shall incur no additional cost to the Department of Veterans Affairs: Provided further, That for the Department of Defense/Veterans Affairs Health Care Sharing Incentive Fund, as authorized by section 721 of Public Law 107–314, a minimum of $15,000,000, to remain available until expended, for any purpose authorized by title 38, United States Code, section 8111.

MEDICAL ADMINISTRATION

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities; uniforms or allowances therefore, as authorized by sections 5901–5902 of title 5, United States Code; and administrative and legal expenses of the Department of Veterans Affairs for collecting and recovering amounts owed the department as authorized under chapter 17 of title 38, United States Code, and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.); $2,858,442,000, plus reimbursements, of which $250,000,000 shall be available until September 30, 2007.

INFORMATION TECHNOLOGY

For necessary expenses, $1,456,821,000 shall be available for the Department of Veterans Affairs Information Technology program: Provided, That within 90 days of enactment of this Act, the Secretary of Veterans Affairs shall establish an office for Information Technology (IT) with the authority and responsibility for all IT projects: Provided further, That this office shall report directly to the Deputy Secretary of Veterans Affairs: Provided further, That this new organizational structure shall be subject to approval of the Committees on Appropriations in both Houses of Congress: Provided further, That within this amount, no more than $100,000,000 from all sources shall be available for the

HealtheVet project for fiscal year 2006: Provided further, That none of the funds made available for the HealtheVet project may be obligated until such time that the Department of Veterans Affairs creates a single position with the responsibility for and the authority to manage the entire project, including budgetary authority: Provided further, That none of the funds made available for the HealtheVet project may be obligated until the Committees on Appropriations in both Houses of Congress approve a financial expenditure plan for the entire project.

MEDICAL FACILITIES

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities and other necessary facilities for the Veterans Health Administration; for administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs; for oversight, engineering and architectural activities not charged to project costs; for repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; for leases of facilities; and for laundry and food services, $3,297,669,000, plus reimbursements, of which $250,000,000 shall be available until September 30, 2007.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by chapter 73 of title 38, United States Code to remain available until September 30, 2007, $412,000,000, plus reimbursements, of which, not less than $15,000,000 shall be used for Gulf War Illness research.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including administrative expenses in support of department-wide capital planning, management and policy activities, uniforms or allowances therefore; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail, $1,418,827,000: Provided, The Veterans Affairs shall conduct an information campaign in States with an average annual disability compensation payment of less than $7,300 (according to the report issued by the Department of Veterans Affairs Office of Inspector General on May 19, 2005), to inform all veterans receiving disability compensation, by direct mail, of the history of below average disability compensation payments to veterans in such States, and to provide all veterans in each such State, through broadcast or print advertising, with the aforementioned historical information and instructions for submitting new claims and requesting review of past disability claims and ratings: Provided further, That expenses for services and assistance authorized under title 38, United States Code, sections 3104(a)(1), (2), (5), and (11) that the Secretary of Veterans Affairs determines are necessary to enable entitled veterans: (1) to the maximum extent feasible, to become employable and to obtain and maintain suitable employment; or (2) to achieve maximum independence in daily living, shall be charged to this account: Provided further, That the Veterans Benefits Administration shall be funded at not less than $1,093,937,500: Provided further, That of the funds made available under this heading, not to exceed $71,000,000 shall be available for obligation until September 30, 2007.

NATIONAL CEMETERY ADMINISTRATION

For necessary expenses of the National Cemetery Administration for operations and maintenance, not otherwise provided for, including uniforms or allowances therefore; cemeterial expenses as authorized by law; purchase of one passenger motor vehicle for use in cemeterial operations; and hire of passenger motor vehicles, $156,447,000: Provided, That of the funds made available under this heading, not to exceed $7,800,000 shall be available until September 30, 2007.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $70,174,000, to remain available until September 30, 2007.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities including parking projects under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is more than the amount set forth in title 38, United States Code, section 8104(a)(3)(A) or where funds for a project were made available in a previous major project appropriation, $607,100,000, to remain available until expended, of which $539,800,000 shall be for Capital Asset Realignment for Enhanced Services (CARES) activities; and of which $2,500,000 shall be to make reimbursements as provided in title 41, United States Code, section 612 for claims paid for contract disputes: Provided, That except for advance planning activities, including needs assessments which may or may not lead to capital investments, and other capital asset management related activities, such as portfolio development and management activities, and investment strategy studies funded through the advance planning fund and the planning and design activities funded through the design fund and CARES funds, including needs assessments which may or may not lead to capital investments, none of the funds appropriated under this heading shall be used for any project which has not been approved by the Congress in the budgetary process: Provided further, That funds provided in this appropriation for fiscal year 2006, for each approved project (except those for CARES activities referenced above) shall be obligated: (1) by the awarding of a construction documents contract by September 30, 2006; and (2) by the awarding of a construction contract by September 30, 2007: Provided further, That the Secretary of Veterans Affairs shall promptly report in writing to the Committees on Appropriations of both Houses of Congress any approved major construction project in which obligations are not incurred within the time limitations established above: Provided further, That none of the funds in this or any other Act may be used to modify or alter the mission, services or infrastructure of the 18 facilities on the Capital Asset Realignment for Enhanced Services (CARES) list requiring further study as specified by the Secretary of Veterans Affairs.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities including parking projects under the jurisdiction or for the use of the Department of Veterans Affairs, including planning and assessments of needs which may lead to capital investments, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, 8122, and 8162 of title 38, United States Code, where the estimated cost of a project is equal to or less than the amount set forth in title 38, United States Code, section 8104(a)(3)(A), $208,937,000, to remain available until expended, along with unobligated balances of previous ''Construction, minor projects'' appropriations, of which $160,000,000 shall be for Capital Asset Realignment for Enhanced Services (CARES) activities: Provided, That from amounts appropriated under this heading, additional amounts may be used for CARES activities upon notification of and approval by the Committees on Appropriations of both Houses of Congress: Provided further, That funds in this account shall be available for: (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe; and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities; and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes; and for furnishing care to veterans as authorized by title 38, United States Code, sections 8131–8137, $104,322,000, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by title 38, United States Code, section 2408, $32,000,000, to remain available until expended.

GENERAL PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 201. Any appropriation for the Veterans Benefits Administration for fiscal year 2006 for ''Compensation and pensions'', ''Readjustment benefits'', and ''Veterans insurance and indemnities'' may be transferred as necessary to any other of the mentioned appropriations: Provided, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued, or absent a response, a period of 30 days has elapsed.

(INCLUDING TRANSFER OF FUNDS)

SEC. 202. Amounts made available for the Veterans Health Administration for fiscal year 2006 under the ''Medical services'', ''Medical administration'', ''Information technology'', and ''Medical facilities'' accounts may be transferred between the mentioned accounts: Provided, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued, or absent a response, a period of 30 days has elapsed: Provided further, That no transfer may be made out of the ''Medical and Prosthetic Research'' account.

SEC. 203. The Secretary of Veterans Affairs shall submit to the Committees on Appropriations in both Houses of Congress a quarterly report on the financial status of the Veterans Health Administration. This report shall contain, at a minimum, both planned and actual expenditure rates, unobligated balances, and any potential financial shortfalls.

SEC. 204. No project for which funds have been appropriated in the ''Construction, major projects'' account may be canceled or altered in scope by more than 10 percent in cost without submitting a request to the Committees on Appropriations of both Houses of Congress and an

approval is issued, or absent a response, a period of 30 days has elapsed.

SEC. 205. No appropriations in this Act for the Department of Veterans Affairs shall be available for hospitalization or examination of any persons (except beneficiaries entitled under the laws bestowing such benefits to veterans, and persons receiving such treatment under 5 U.S.C., sections 7901–7904 or 42 U.S.C., sections 5141–5204), unless reimbursement of cost is made to the ''Medical services'' account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 206. Appropriations available to the Department of Veterans Affairs for fiscal year 2006 for ''Compensation and pensions'', ''Readjustment benefits'', and ''Veterans insurance and indemnities'' shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 2005.

SEC. 207. Appropriations accounts available to the Department of Veterans Affairs for fiscal year 2006 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, except that if such obligations are from trust fund accounts they shall be payable from ''Compensation and pensions''.

SEC. 208. Notwithstanding any other provision of law, during fiscal year 2006, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans' Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the ''General operating expenses'' account for the cost of administration of the insurance programs financed through those accounts: Provided, That reimbursement shall be made only from the surplus earnings accumulated in an insurance program in fiscal year 2006 that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: Provided further, That if the cost of administration of an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: Provided further, That the Secretary of Veterans Affairs shall determine the cost of administration for fiscal year 2006 which is properly allocable to the provision of each insurance program and to the provision of any total disability income insurance included in such insurance program.

SEC. 209. Notwithstanding any other provision of law and hereafter, the Department of Veterans Affairs shall continue the Franchise Fund established by title I of Public Law 104–204.

SEC. 210. Amounts deducted from enhanced-use lease proceeds to reimburse an account for expenses incurred by that account during a prior fiscal year for providing enhanced-use lease services, may be obligated during the fiscal year in which the proceeds are received.

SEC. 211. Funds available in any Department of Veterans Affairs appropriation for fiscal year 2006 or funds for salaries and other administrative expenses shall also be available to reimburse the Office of Resolution Management and the Office of Employment Discrimination Complaint Adjudication for all services provided at rates which will recover actual costs but not exceed $29,758,000 for the Office of Resolution Management and $3,059,000 for the Office of Employment and Discrimination Complaint Adjudication: Provided, That payments may be made in advance for services to be furnished based on estimated costs: Provided further, That amounts received shall be credited to ''General operating expenses'' for use by the office that provided the service.

SEC. 212. No appropriations in this Act for the Department of Veterans Affairs shall be available to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary of Veterans Affairs submits a report which the Committees on Appropriations in both Houses of Congress approve within 30 days following the date on which the report is received.

SEC. 213. No funds of the Department of Veterans Affairs shall be available for hospital care, nursing home care, or medical services provided to any person under chapter 17 of title 38, United States Code, for a non-service-connected disability described in section 1729(a)(2) of such title, unless that person has disclosed to the Secretary of Veterans Affairs, in such form as the Secretary may require, current, accurate third-party reimbursement information for purposes of section 1729 of such title: Provided, That the Secretary may recover, in the same manner as any other debt due the United States, the reasonable charges for such care or services from any person who does not make such disclosure as required: Provided further, That any amounts so recovered for care or services provided in a prior fiscal year may be obligated by the Secretary during the fiscal year in which amounts are received.

SEC. 214. Amounts made available under the ''Medical services'' account are available—

(1) for furnishing recreational facilities, supplies, and equipment; and

(2) for funeral expenses, burial expenses, and other expenses incidental to funerals and burials for beneficiaries receiving care in the department.

(INCLUDING TRANSFER OF FUNDS)

SEC. 215. Any appropriation for fiscal year 2006 for the Veterans Benefits Administration made available under the heading ''General operating expenses'' may be transferred to the ''Veterans Housing Benefit Program Fund Program Account'' for the purpose of providing funds for the nationwide property management contract if the administrative costs of such contract exceed $8,800,000 in the fiscal year.

SEC. 216. Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall allow veterans eligible under existing Department of Veterans Affairs Medical Care requirements and who reside in Alaska to obtain medical care services from medical facilities supported by the Indian Health Services or tribal organizations. The Secretary shall: (1) limit the application of this provision to rural Alaskan veterans in areas where an existing Department of Veterans Affairs facility or Veterans Affairs-contracted service is unavailable; (2) require participating veterans and facilities to comply with all appropriate rules and regulations, as established by the Secretary; (3) require this provision to be consistent with Capital Asset Realignment for Enhanced Services Activities; and (4) result in no additional cost to the Department of Veterans Affairs or the Indian Health Service.

(INCLUDING TRANSFER OF FUNDS)

SEC. 217. Such sums as may be deposited to the Department of Veterans Affairs Capital Asset Fund pursuant to title 38, United States Code, section 8118 may be transferred to the ''Construction, major projects'' and ''Construction, minor projects'' accounts, to remain available until expended for the purposes of these accounts.

SEC. 218. Notwithstanding any other provision of law, at the discretion of the Secretary of Veterans Affairs, proceeds or revenues derived from enhanced-use leasing activities (including disposal) may be deposited into the ''Construction, major projects'' and ''Construction, minor projects'' accounts and be used for construction (including site acquisition and disposition), alterations and improvements of any medical facility under the jurisdiction or for the use of the Department of Veterans Affairs. Such sums as realized are in addition to the amount provided for in ''Construction, major projects'' and ''Construction, minor projects''.

SEC. 219. None of the funds made available in this Act may be used to implement any policy prohibiting the Directors of the Veterans Integrated Service Networks from conducting outreach or marketing to enroll new veterans within their respective Networks.

(INCLUDING TRANSFER OF FUNDS)

SEC. 220. That such sums as may be deposited to the Medical Care Collections Fund pursuant to section 1729A of title 38, United States Code, may be transferred to the ''Medical services'' account, to remain available until expended for the purposes of this account.

SEC. 221. Appropriations available to the Department of Veterans Affairs for fiscal year 2006 for salaries and expenses shall be available for services authorized by title 5, United States Code, section 3109; hire of passenger motor vehicles; lease of a facility or land or both; and uniforms or allowances therefor, as authorized by title 5, United States Code, sections 5901–5902.

SEC. 222. REPORT ON HOUSING ASSISTANCE TO LOW-INCOME VETERANS. (a) IN GENERAL.—The Comptroller General shall conduct a study on housing assistance to low-income veterans, including—

(1) an estimate of the number of low-income, very low-income, and extremely low-income veteran households;

(2) a description of the demographic and socioeconomic characteristics and health and disability status of such households;

(3) an estimate of the number of such households experiencing a high cost burden in, overcrowding in, or poor quality of housing, or experiencing homelessness;

(4) an assessment of such households, including their current barriers to safe, quality, and affordable housing and levels of homelessness among such households;

(5) the extent to which Federal housing assistance programs provide benefits, including supportive services, to all veteran households and in particular to low-income, very low-income, and extremely-low income veteran households;

(6) the number of units designated for or occupied by veterans and low-income, very low-income, and extremely low-income veterans in Federally subsidized or insured housing;

(7) a summary description of the manner in which veteran compensation, veteran dependency and indemnity compensation, and veteran pension are considered as income or adjusted income for purposes of determining—

(A) eligibility for Federal housing assistance programs; and

(B) the amount of rent paid by a veteran household for occupancy of a dwelling unit or housing assisted under Federal housing assistance programs;

(8) a summary description of the special considerations made for veterans under—

(A) public housing plans submitted under section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c-1); and

(B) comprehensive housing affordability strategies submitted under section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705);

(9) the extent to which public housing authorities have established preferences for veterans for public housing and housing choice vouchers;

(10) the number of homeless veterans provided assistance, cumulatively and currently, under the program of housing choice vouchers for homeless veterans under section 8(o)(19) of the United States Housing Act of 1937 (42. U.S.C. 1437f(o)(19)), and the current status of the program, including—

(A) the number of vouchers the Department of Housing and Urban Development currently allocates to the Department of Veterans Affairs;

(B) the monetary value of such vouchers; and

(C) the names and locations of VA medical centers receiving such vouchers; and

(11) a description of activities relating to veterans of the Department of Housing and Urban Development.

(b) ACQUISITION OF SUPPORTING INFORMATION.—In carrying out the study under this section, the Comptroller General shall seek to obtain views from the following persons:

(1) The Secretary of Housing and Urban Development.

(2) The Secretary of Veterans Affairs.

(3) Low-income, very low-income, and extremely low-income veterans.

(4) Representatives of State and local housing assistance agencies.

(5) Representatives of nonprofit low-income housing providers and homeless service providers, including homeless veteran service providers.

(6) National advocacy organizations concerned with veterans, homelessness, and low-income housing.

(c) TIMING OF REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under this section.

SEC. 223. (a) Not later than 60 days after the date of enactment of this Act, the Secretary of Veterans Affairs, after consultation with the National Association of County Veterans Service Officers, other veterans service organizations, and State departments of veterans affairs shall submit a report to the Committee on Appropriations of the Senate that describes a plan (including estimated costs) to provide an adequate supply of the 2006 edition of handbook entitled, Federal Benefits for Veterans and Dependents, and all subsequent editions, to all county veterans service officers in the United States.

SEC. 224. None of the funds made available in this Act or any other Act may be used—

(1) to revoke or reduce a veteran's disability compensation for post traumatic stress disorder based on a finding that the Department of Veterans Affairs failed to collect justifying documentation unless such failure was the direct result of fraud by the applicant; or

(2) for the implementation of Recommendation 3 of VA Inspector General Report No. 05–00765–137 or any related review and investigation of post traumatic stress disorder unemployability and 100 scheduler percent ratings cases, until the Department of Veterans' Affairs reports to the Committee on Appropriations on its plan for implementing this recommendation, and outlines the staffing and funding requirements.

SEC. 225. CLINICAL TRAINING AND PROTOCOLS. (a) FINDINGS.—Congress finds that—

(1) the Iraq War Clinician Guide has tremendous value; and

(2) the Secretary of Defense and the National Center on Post Traumatic Stress Disorder should continue to work together to ensure that the mental health care needs of servicemembers and veterans are met.

(b) COLLABORATION.—The National Center on Post Traumatic Stress Disorder shall collaborate with the Secretary of Defense—

(1) to enhance the clinical skills of military clinicians through training, treatment protocols, web-based interventions, and the development of evidence-based interventions; and

(2) to promote pre-deployment resilience and post-deployment readjustment among servicemembers serving in Operation Iraqi Freedom and Operation Enduring Freedom.

(c) TRAINING.—The National Center on Post Traumatic Stress Disorder shall work with the Secretary of Defense to ensure that clinicians in the Department of Defense are provided with the training and protocols developed pursuant to subsection (b)(1).

SEC. 226. (a) The Secretary of Veterans Affairs shall immediately submit to the Committees on Veterans' Affairs and Appropriations of the Senate and the House of Representatives a report on any Department of Veterans Affairs budget shortfall totaling 2 percent or more of the Department's total discretionary funding budget for a fiscal year.

(b) The Secretary of Veterans Affairs shall, not later than 180 days after the date of the enactment of this Act, submit to the Committees on Veterans' Affairs and Appropriations of the Senate and the House of Representatives a comprehensive plan to improve long-term budget planning and actuarial forecasting at the Department of Veterans Affairs.

SEC. 227. (a) In conducting advanced planning activities under this Act, the Secretary of Veterans Affairs shall reevaluate Veterans Health Administration Handbook 1006.1 and other guidance and procedures related to planning, activating, staffing, and maintaining community-based outpatient clinics.

(b) In conducting such planning, the Secretary shall—

(1) revise as appropriate existing policies to make them less disadvantageous to rural veterans; and

(2) reexamine criteria used in planning, activating, staffing, and maintaining such clinics, including geographic access, number of Priority 1–6 veterans, market penetration, cost effectiveness, and distance to parent facilities, to determine whether such criteria are weighted in a manner that negatively affects rural veterans.

TITLE III—RELATED AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; not to exceed $7,500 for official reception and representation expenses; and insurance of official motor vehicles in foreign countries, when required by law of such countries, $36,250,000, to remain available until expended.

FOREIGN CURRENCY FLUCTUATIONS

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, $15,250,000, to remain available until expended, for purposes authorized by title 36, United States Code, section 2109.

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Appeals for Veterans Claims as authorized by title 38, United States Code, sections 7251–7298, $18,795,000, of which $1,260,000 shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses, $28,550,000, to remain available until expended. In addition, such sums as may be necessary for parking maintenance, repairs and replacement, to be derived from the lease of Department of Defense Real Property for Defense Agencies account.

ARMED FORCES RETIREMENT HOME

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the Armed Forces Retirement Home—Washington, District of Columbia and the Armed Forces Retirement Home—Gulfport, Mississippi, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $58,281,000, of which $1,248,000 shall remain available until expended for construction and renovation of the physical plants at the Armed Forces Retirement Home—Washington, District of Columbia and the Armed Forces Retirement Home—Gulfport, Mississippi.

GENERAL PROVISIONS

SEC. 301. Any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying H.R. 2528 shall also be included in the conference report or joint statement accompanying H.R. 2528 in order to be considered as having been approved by both Houses of Congress.

This Act may be cited as the ''Military Construction and Veterans Affairs, and Related Agencies Appropriations Act, 2006''.

Amend the title so as to read: ''An Act making appropriations for Military Construction and Veterans Affairs, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.''.

UNANIMOUS CONSENT AGREEMENT—NOMINATION OF JOHN ROBERTS

Mr. FRIST. Mr. President, I ask unanimous consent that on Thursday, the time from 10:30 a.m. to 11:30 a.m. be divided in the following manner: 10:30 a.m. to 10:45 a.m., Senator LEAHY; 10:45 a.m. to 11 a.m., Senator SPECTER; 11 a.m. to 11:15 a.m., the Democratic leader; and 11:15 a.m. to 11:30 a.m., the majority leader; provided further that at 11:30 a.m. on Thursday, the Senate proceed to a vote on the confirmation of the nomination of John Roberts to be Chief Justice of the United States, with no further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENDING BY 10 YEARS THE AUTHORITY OF THE SECRETARY OF COMMERCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of H.R. 2385 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2385) to extend by 10 years the authority of the Secretary of Commerce to conduct the quarterly financial report program.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2385) was read the third time and passed.

EXPRESSING THE SENSE OF THE SENATE REGARDING FEDERAL RESPONSE AND RECOVERY EFFORTS FOR HURRICANE KATRINA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 251, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 251) expressing the sense of the Senate that the President should ensure that Federal response and recovery efforts for Hurricane Katrina include consideration for animal rescue and care.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 251) was agreed to, as follows:

S. RES. 251

Resolved, That it is the sense of the Senate that, in order to efficiently coordinate and respond to the growing crisis represented by the large number of animals left behind in the Gulf Coast region, the President should ensure that the Federal response and recovery efforts for Hurricane Katrina include consideration for animal rescue and care.

HIGHER EDUCATION EXTENSION ACT OF 2005

Mr. FRIST. I ask unanimous consent that the HELP Committee be discharged and the Senate proceed to the immediate consideration of H.R. 3784.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3784) to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3784) was read the third time and passed.

MEASURE READ THE FIRST TIME—S. 1771

Mr. FRIST. I understand there is a bill at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1771) to express the sense of Congress and to improve reporting with respect to the safety of workers in the response and recovery activities related to Hurricane Katrina, and for other purposes.

Mr. FRIST. I now ask for its second reading and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. The objection having been heard, the bill will receive its second reading on the next legislative day.

MEASURE PLACED ON THE CALENDAR—S. 1761

Mr. FRIST. I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (S. 1761) to clarify the liability of Government contractors assisting in rescue, recovery, repair and reconstruction work in the Gulf Coast Region of the United States affected by Hurricane Katrina or other major disasters.

Mr. FRIST. In order to place the bill on the calendar under the provisions of rule XIV, I would object to further proceedings.

The PRESIDING OFFICER. Objection having been heard, the bill is placed on the calendar.

ORDERS FOR TUESDAY, SEPTEMBER 27, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. on Tuesday, September 27. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to executive session to continue consideration of Calendar No. 317, John Roberts to be Chief Justice of the United States.

I further ask unanimous consent that the time from 10 to 11 be under the control of the majority leader or his designee; the time from 11 to 12 be under the control of the Democratic leader or his designee; the time from 12 to 12:30 under majority control; 2:15 to 2:45 under majority control; 2:45 to 3:45, Democratic control; 3:45 to 4:45 under majority control; 4:45 to 5:45 under Democratic control; 5:45 to 6:45 under majority control; 6:45 to 7:45 under Democratic control. I further ask unanimous consent that the Senate stand in recess from 12:30 to 2:15 to accommodate the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow we will resume statements on the nomination of John Roberts, those statements having begun at about 1 o'clock today. Moments ago we locked in a time certain for the vote on the confirmation of the Roberts nomination, and that vote is now set for Thursday morning at 11:30 a.m. I do ask all Senators to be in the Chamber and seated at their desks on this historic day for this historic vote.

Tuesday, Wednesday, and Thursday morning will be devoted to continued statements on Judge Roberts. Now that the final vote is set, I encourage Members to come over early for their statements rather than waiting until Thursday morning.

In talking to the Democratic leader, in all likelihood, as we look to later this week, we will be voting on Friday. I make that statement recognizing that we are going to complete this Thursday morning, and we plan on going directly to the Department of Defense appropriations bill. Over the course of this session, we have not voted on a lot of Fridays, but now we are going to have to begin voting on Fridays. I wish to give people notification on both sides of the aisle given the fact that we have so much business going on and, in such a short period of time, so much to do. We will give Members as much advance notice as possible, but I do want to notify people that we will be voting on this Friday.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:45 p.m., adjourned until Tuesday, September 27, 2005, at 9:45 a.m.

EXTENSIONS OF REMARKS

A PROCLAMATION CONGRATULATING THE SOUTHEASTERN FFA FORESTRY CLASS FOR PLACING 4TH IN ''THE BIG E''

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Mr. NEY. Mr. Speaker:

Whereas, the Southeastern FFA Forestry Class demonstrated exemplary knowledge of the skills and competencies required for a career in forestry; and

Whereas, the Southeastern FFA Forestry Class has been determined and has endeavored for excellence in the furthering of their forestry education; and

Whereas, the Southeastern FFA Forestry Class members Scott Clary, Chase Carroll, Brian Brown, and Jacob Peecher have achieved individually in the career development event.

Therefore, I, on behalf of the people of Ohio's 18th Congressional District applaud your accomplishment. Your efforts have made us all proud.

RECOGNIZING BRIDGET CALL

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Mr. RAHALL. Mr. Speaker, today I pay tribute to Bridget Call to congratulate her on being selected as West Virginia's teacher of the year for 2006.

Bridget Call, who was chosen from 50 excellent nominees statewide, sets high standards and strives to be a role model for her students. She has dedicated many years to educating and enlightening students at Matewan High School in Mingo County. In addition to her classroom responsibilities, she also serves as head of the Drama Department at Matewan High. In light of her background as a former actress and director with The Araconia Story Inc. summer productions, this additional role is well suited for her talents. As a result of her dedication, Ms. Call will receive an educational technology package from the Smarter Kids Foundation valued at $14,000.

It is with great pride that we recognize a woman who has inspired and motivated so many of our youth in West Virginia. Through her experimental, yet effective teaching style, Bridget Call has contributed greatly to the education of an entire generation of youth in southern West Virginia and I am certain she has been an inspiration to her colleagues as well. As I have said in the past, education is not a solitary endeavor or achievement, nor is it to increase an individual's fortunes, but rather it is to enrich the whole of the family.

America's 229-year-old history is rich with those who have made a difference through educating themselves. Rather using what they have learned to not only educate others but to raise our Nation to inspiring heights. Because of their achievements we continue to prosper from their education and willingness to share their knowledge. The people of West Virginia have always striven for excellence. West Virginians are continually working to better themselves and their communities through education. Ms. Call exemplifies the qualities that are displayed in all West Virginians. West Virginia and the educational system at large, is better for having Ms. Bridget Call.

CELEBRATING THE 90TH BIRTHDAY OF BERNARD ZISES

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Mr. ACKERMAN. Mr. Speaker, I rise today to celebrate the 90th birthday of Bernard Zises and to honor the contributions he has made both to his community and to the United States. Bernard turns 90 on October 23, 2005 and he will celebrate this momentous occasion surrounded by family and friends.

Bernard first made a name for himself in the early 1930's as a college basketball player in New York City. He was a standout during his four years as the highest scoring player in the entire New York City college system. His contributions off the court, however, have been far more impressive.

On March 30th, 2005, Bernard was honored as the ''Gezunter of the Year'' by the Gezunter Club at the Sid Jacobson Jewish Community Center in East Hills, New York. This prestigious honor was bestowed upon Bernard in recognition of his years of dedicated service to the Jewish community in New York and abroad. He has been a huge supporter of, among other charitable causes, the Sid Jacobson Jewish Community Center, the UJA-Federation of New York, Hadassah and the State of Israel.

While he has been honored for his acts of altruism and charity, Bernard is most proud of his wonderful family. His 66-year marriage to his wife, Ruth, his 3 children, 9 grandchildren and 4 great-grandchildren are all great sources of inspiration and happiness to him.

Mr. Speaker, I commend Bernard Zises for his years of dedicated commitment to our community, to the Jewish community, to the United States, to the State of Israel and those around him. Bernard's integrity, selflessness, and stature have certainly made an enormous impression on the great many lives he has touched. In recognition of a lifetime of generosity and altruism, I ask my colleagues in the House of Representatives to rise and join me in honoring Bernard Zises as he celebrates his 90th birthday.

TRIBUTE TO MATT GLASGOW

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Mr. TANCREDO. Mr. Speaker, I rise today to pay tribute to Matt Glasgow, who is set to retire from his position as a Public Affairs Specialist with the U.S. Forest Service on the Grand Mesa, Uncompahgre, and Gunnison National Forests in Colorado.

In addition to serving the public as member of the U.S. Forest Service, Matt spent 20 years in the U.S. Army, retiring as a Master Sergeant in 1981. During that time, Matt served in posts as far away as Europe, Asia, the Middle East, and Africa. Closer to home, he spent time in Washington serving at posts in the Pentagon, the White House, and the U.S. Capitol.

Matt was a recipient of numerous military awards, including the Legion of Merit, the Bronze Star, the Air Medal, the Joint Services Commendation Medal, and the Army Commendation Medal. He has also received several well deserved merit awards from the U.S. Forest Service.

Mr. Speaker, Matt has spent the last few decades serving America.

His dedication to public service, his expertise, his commitment, and his enthusiasm on the forest will all be missed.

A PROCLAMATION RECOGNIZING WILLIAM ''BILL'' BALSER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Mr. NEY. Mr. Speaker:

Whereas William ''Bill'' Balser was elected to the high office of Department Commander of Ohio on Sunday, July 10, 2005; and

Whereas, William ''Bill'' Balser is a 30-year member of the American Legion Post 85, where he has held many offices including Post Commander and Finance Officer; and

Whereas, William ''Bill'' Balser has exemplified the meaning of successful civic duty through his unselfish role to serve the greater good of the Ohio Valley; and

Whereas, William ''Bill'' Balser recently celebrated his 50th wedding anniversary with his wife Trudy and is the loving father of 3 children and 2 grandchildren.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in recognizing William ''Bill'' Balser for his longtime dedication to the residents and children of Ohio's 18th district.

EXPRESSING APPRECIATION TO SOUTH KOREA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Mr. ENGEL. Mr. Speaker, fifty-five years ago, the United States came to the aid of South Korea, when it was invaded by Communist forces from across its northern border. This month, South Korea has come to the aid of the United States, when a natural disaster struck from across our southern coastline.

With its generous pledge of $30 million in cash, services, and in-kind contributions, South Korea joins a list of more than 90 countries that have offered some form of assistance to our efforts of relief and recovery in the aftermath of Hurricane Katrina.

What is noteworthy is that, among those nearly 100 countries, South Korea is providing the fourth-largest offer of assistance. According to a recent statement by the Korean Embassy, ''Seoul's commitment of $30 million will comprise of $5 million from the government budget with the remainder to be raised through a collection of contributions by the Korean National Red Cross, the religious community and Korean corporations with U.S. subsidiaries.'' In fact, just last week in New York, the Federation of Korean Industries (FKI) pledged $10 million to be collected from Korean conglomerates directly to the Bush-Clinton Katrina Fund.

It is not mentioned often enough that South Korea is one of America's most important and trusted allies. In the global war on terror, there are more South Korean troops stationed in Iraq than any other nation besides the United States and the United Kingdom. They have assisted our efforts there from almost the moment the Saddam Hussein regime was toppled and have done so at great personal peril to the soldiers deployed and at considerable political risk to the government in Seoul.

As I had the opportunity to travel to North Korea at the beginning of the year along with several of my colleagues, including Rep. CURT WELDON, the status of the Six-Party Talks to resolve North Korea's nuclear issue has been of great concern to me. That is why I was pleased to know that earlier this week, after lengthy deliberation, a joint statement was agreed to by all the parties involved.

I commend the U.S. Envoy to the Six-Party Talks, my good friend Ambassador Christopher Hill, for his skillful diplomatic leadership in helping to achieve the accord. I also commend South Korea for remaining a key partner throughout the difficult negotiations. It is my hope that the joint statement will provide the impetus for a denuclearized Korean peninsula and I encourage the six nations to work together to make it a reality.

For these reasons, Mr. Speaker, I wish to express my personal appreciation to the government and people of South Korea for all they have done to continually support the United States, at home and abroad. I encourage my colleagues on both sides of the aisle to offer their own expressions of gratitude to the Korean people for their generosity, spirit of friendship and abiding commitment to an enduring alliance partnership with the United States.

HONORING GROVER BARNES

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Mrs. CAPPS. Mr. Speaker, today I rise to honor Grover Barnes on the occasion of his 98th birthday. Grover Barnes is the oldest living African American Man in Santa Barbara, and a most esteemed citizen of our fair city. He truly is a rare gem and a community treasure.

Grover Barnes, a Texas native, came to Santa Barbara over 62 years ago. In 1942 he was hired by the Miramar Hotel as a porter and one year later was the first African American promoted to Bell Captain where he served for thirty-five years. It has been said that Grover Barnes is an inimitable part of history of the city of Montecito. His level of service is remembered by generations of guests. He was known for his warm hospitality to the young and old, the rich and famous, and the not so rich and famous. In 2001, Grover Barnes was voted as a Local Hero of Santa Barbara and affectionately called ''The Ambassador of Hospitality.''

The generosity of spirit that marked Mr. Barnes' professional life is many times amplified in his lifelong dedication to his friends and family, to community service and to his church. It is his deep devotion to his community, his concern for those who have been left behind, his commitment to making sure the right thing is done for someone in need, that makes him a true community treasure. He has worked tirelessly to advance just causes and has always stayed focused on the right issues. To this day, Mr. Barnes contributes to our community life by writing letters to the Santa Barbara News Press editor which are thought provoking and historically significant.

Grover Barnes has received numerous honors for his greatest joy: a lifelong devotion to serving others and for making sure justice is done. He has been intensely involved in many community organizations including: the NAACP Santa Barbara Chapter, the Brotherhood of Santa Barbara, the Mason Lodge, the Eastside Study Group and the George Washington Carver Scholarship Society. As a man who has devoted his life to helping others, I today recognize Grover Barnes as a role model of the very best kind, a man who has been a friend to many and a teacher to all, a shining example of what makes this country and community great.

RECOGNIZING THE 125TH ANNIVERSARY OF URSULINE HIGH SCHOOL

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Ms. WOOLSEY. Mr. Speaker, I rise to recognize the 125th Anniversary of Ursuline High School. Ursuline High School, founded in 1880 in Santa Rosa by the Ursuline Sisters, is a private Catholic secondary school committed to excellence in educating young women.

Ursuline High School, known in the early years as Ursuline Academy, first opened its doors at 10th and B Streets in the former Santa Rosa Christian College Building. By 1957, the school relocated to its current location in northern Santa Rosa on a portion of the Howarth Estate. The year 1965 saw the addition of Cardinal Newman High School, a private school for young men, on the adjacent property.

Even as Ursuline High School has grown and spawned such acclaimed alumni as Olympic Swimming Champion Ann Curtis and Broadway actor Valerie Leonard, the school has remained focused on empowering young women to realize their full potential.

Mr. Speaker, it is my pleasure to recognize Ursuline High School for its 125 years of commitment to educating young women to be leaders.

PROVIDING FOR CONSIDERATION OF H.R. 3132, CHILDREN'S SAFETY ACT OF 2005

SPEECH OF

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 2005

Mr. TIAHRT. Mr. Chairman, I rise today in support of the Children's Safety Act. We have heard heart-wrenching accounts of the devastating effects, both immediate and long-term, of sexual abuse and it is time we pass legislation that would help prevent further cases of abuse.

It is vital that sex offenders are required by law to report to law enforcement nationwide once they move residences. Our children are at risk when these felons are unaccounted for. With a National Sex Offender Registry in place and freely accessible to the public, American families will be safer and parents can further protect their children from sexual predators. We have heard of too many victims that suffered through the horrible acts of sexual abuse by a convicted sex offender who failed to update their registration with the sex offender registry. Too many times sexual offenders have moved out of state and left their hurtful past only to commit the same crimes. Too many times sexual offenders have been released from prison after serving a term for sexual abuse only to disappear because they were never forced to register. Too often parents have found out after the attack that a neighbor or friend has a history of sexual abuse.

The Children's Safety Act would give additional tools to our citizens and law enforcement to track offenders and prevent additional attacks. By expanding the coverage of sex offenders to include any felony sex offender and misdemeanor sex offenses and possession of child pornography, we will be giving our parents and our police the additional information so they are proactive on preventing sexual attacks. The Children's Safety Act also puts into law more common sense, that sex offenders should be forced to register before they are released from prison. And the Children's Safety Act allows states to increase the amount of information that they post on the Nation Sex Offender Registry so families and law enforcement officials can keep track of these predators.

I am disappointed that this bill was brought to the floor of the House with an amendment

expanding federal hate-crimes protections. I voted AGAINST this amendment, but supported the bill to further protect our children against sexual predators, under the assurance the ''hate crimes'' amendment would not survive the Conference between the House and the Senate as was the case last year with the Defense Department Authorizations Bill. The amendment would federalize local crimes if the suspected motive is animosity toward homosexuals or transgenders. While I strongly abhor bigotry and discrimination, hate-crime legislation would require the government to provide for more punishment for any given violent crime or physical assault simply because the government decided that the motive for the crime was more heinous than another. Every citizen must be afforded the same amount of protection and fairness provided for under the law; however, none must be given a ''special'' status. Individuals caught committing a crime must understand that conviction will be certain, sentencing will be swift and punishment will be severe—and now with the passage of the Children's Safety Act, sex offenders will be held to more strict punishment and limitation.

Ensuring the security of our citizens, and especially our children, should be the primary focus of government. The Children's Safety Act helps meet this entrusted obligation, and I am proud to cast my vote in support of this measure.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, September 27, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 28

9:30 a.m.
Environment and Public Works
To hold hearings to examine the role of science in environmental policy making.
SD–406

Foreign Relations
To hold hearings to examine the international response to Darfur.
SR–325

Homeland Security and Governmental Affairs
To resume hearings to examine issues relating to recovering from Hurricane Katrina, focusing on the needs of those displaced, today and tomorrow.
SD–342

Judiciary
To hold hearings to examine protecting copyright and innovation in a post-Grokster world.
SD–226

10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine S. 1334, to provide for integrity and accountability in professional sports, and S. 1114, to establish minimum drug testing standards for major professional sports leagues.
SH–216

Finance
To hold hearings to examine community rebuilding needs and effectiveness of past proposals relating to Hurricane Katrina.
SD–215

11:30 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

2 p.m.
Judiciary
Antitrust, Competition Policy and Consumer Rights Subcommittee
To hold hearings to examine whether there is more consolidation or new choices for consumers regarding video competition in 2005.
SD–226

Appropriations
Business meeting to markup H.R.2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006.
SD–106

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold oversight hearings to examine the grazing programs of the Bureau of Land Management and the Forest Service, including proposed changes to grazing regulations, and the status of grazing permit renewals, monitoring programs and allotment restocking plans.
SD–366

SEPTEMBER 29

9:30 a.m.
Armed Services
To hold hearings to examine U.S. military strategy and operations in Iraq.
SD–106

Foreign Relations
To hold hearings to examine the Protocol of 1997 Amending MARPOL Convention (Treaty Doc. 108–7), Agreement with Canada on Pacific Hake/Whiting (Treaty Doc. 108–24), Convention Concerning Migratory Fish Stock in the Pacific Ocean (Treaty Doc. 109–1), Convention Strengthening Inter-American Tuna Commission (Treaty Doc. 109–2), and the Convention on Supplementary Compensation on Nuclear Damage (Treaty Doc. 107–21).
SD–419

Judiciary
Business meeting to consider pending calendar business.
SD–226

Homeland Security and Governmental Affairs
Investigations Subcommittee
To hold hearings to examine the effectiveness and cost of the Defense Travel System of the Department of Defense.
SD–342

10 a.m.
Banking, Housing, and Urban Affairs
Business meeting to consider the nominations of Emil W. Henry, Jr., of New York, to be Assistant Secretary for Financial Institutions, and Patrick M. O'Brien, of Minnesota, to be Assistant Secretary for Terrorist Financing, both of the Department of the Treasury, Keith E. Gottfried, of California, to be General Counsel, and Kim Kendrick, of the District of Columbia, to be Assistant Secretary, Keith A. Nelson, of Texas, to be Assistant Secretary, and Darlene F. Williams, of Texas, to be Assistant Secretary, all of the Department of Housing and Urban Development, and Israel Hernandez, of Texas, to be Assistant Secretary and Director General of the United States and Foreign Commercial Service, Darryl W. Jackson, of the District of Columbia, to be Assistant Secretary, Franklin L. Lavin, of Ohio, to be Under Secretary for International Trade, and David H. McCormick, of Pennsylvania, to be Under Secretary for Export Administration, all of the Department of Commerce; to be followed by a hearing to examine the implementation of the Exon-Florio provision by the Committee on Foreign Investment in the United States (CFIUS), Department of the Treasury, which seeks to serve U.S. investment policy through reviews that protect national security while maintaining the credibility of open investment policy.
SD–538

Commerce, Science, and Transportation
To hold hearings to examine communications for first responders in disaster.
SD–562

Veterans' Affairs
To hold hearings to examine the nominations of William F. Tuerk, of Virginia, to be Under Secretary for Memorial Affairs, Robert Joseph Henke, of Virginia, to be Assistant Secretary for Management, John M. Molino, of Virginia, to be Assistant Secretary for Policy and Planning, Lisette M. Mondello, of Texas, to be Assistant Secretary for Public and Intergovernmental Affairs, and George J. Opfer, of Virginia, to be Inspector General, all of Department of Veterans Affairs.
SR–418

Aging
To hold hearings to examine the impact of direct-to-consumer drug advertising on seniors' health and health care costs.
SH–216

2 p.m.
Judiciary
To hold hearings to examine pending judicial nominations.
SD–226

2:30 p.m.
Intelligence
To receive a closed briefing regarding certain intelligence matters.
SH–219

3 p.m.
Homeland Security and Governmental Affairs
Federal Financial Management, Government Information, and International Security Subcommittee
To hold hearings to examine certain activities of the General Services Administration.
SD–342

3:30 p.m.
Foreign Relations
To receive a closed briefing regarding the evolving NATO role in Afghanistan.
S–407, Capitol

OCTOBER 6

9:30 a.m.
Armed Services
To hold hearings to examine U.S. military strategy and operations in Iraq.
SD–106

OCTOBER 20

10 a.m.
Indian Affairs
To hold hearings to examine Indian water rights settlement policy effects on the Duck Valley Reservation proposed settlement agreement.
SR–485

CANCELLATIONS

OCTOBER 6

10 a.m.
Energy and Natural Resources
To hold hearings to examine the Environmental Management programs of the Department of Energy.
SD–366

POSTPONEMENTS

SEPTEMBER 28

2:30 p.m.
Indian Affairs
To hold an oversight hearing to examine Indian housing.
SR–485

Daily Digest

HIGHLIGHTS

Senate agreed to the Protocol of Amendment to International Convention on Simplification and Harmonization of Customs Procedures (Treaty Doc. 108–6).

Senate

Chamber Action

Routine Proceedings, pages S10395–S10460

Measures Introduced: Seven bills and one resolution were introduced, as follows: S. 1767–1773, and S. Res. 251. **Pages S10424–25**

Measures Reported:

S. 37, to extend the special postage stamp for breast cancer research for 2 years. (S. Rept. No. 109–140) **Page S10424**

Measures Passed:

Quarterly Financial Report Program: Committee on Homeland Security and Governmental Affairs was discharged from further consideration of H.R. 2385, to extend by 10 years the authority of the Secretary of Commerce to conduct the quarterly financial report program, and the bill was then passed, clearing the measure for the President. **Page S10459**

Animal Rescue and Care: Senate agreed to S. Res. 251, expressing the sense of the Senate that the President should ensure that Federal response and recovery efforts for Hurricane Katrina include consideration for animal rescue and care. **Page S10460**

Higher Education Extension Act: Committee on Health, Education, Labor, and Pensions was discharged from further consideration of H.R. 3784, to temporarily extend the programs under the Higher Education Act of 1965, and the bill was then passed, clearing the measure for the President. **Page S10460**

Roberts Nomination: Senate began consideration of the nomination of John G. Roberts, Jr., of Maryland, to be Chief Justice of the United States. **Pages S10395–S10414**

A unanimous-consent-time agreement was reached providing for further consideration of the nomination at 10:30 a.m., on Thursday, September 29, 2005, and at 11:30 a.m., Senate will vote on confirmation of the nomination. **Page S10459**

A unanimous-consent-time agreement was reached providing for further consideration of the nomination at 9:45 a.m., on Tuesday, September 27, 2005. **Page S10460**

Treaty Approved: The following treaty having passed through its various parliamentary stages, up to and including the presentation of the resolution of ratification, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification was agreed to by a unanimous vote of 87 yeas (Vote No. 244):

Protocol of Amendment to International Convention on Simplification and Harmonization of Customs Procedures (Treaty Doc. 108–6). **Pages S10414–15**

Measures Placed on Calendar: **Pages S10424, S10460**

Measures Read First Time: **Page S10424**

Executive Communications: **Page S10424**

Additional Cosponsors: **Pages S10425–26**

Statements on Introduced Bills/Resolutions: **Pages S10426–40**

Notices of Hearings/Meetings: **Page S10440**

Privilege of the Floor: **Page S10441**

Record Votes: One record vote was taken today. (Total—244) **Pages S10414–15**

Adjournment: Senate convened at 1 p.m., and adjourned at 7:45 p.m., until 9:45 a.m., on Tuesday, September 27, 2005. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S10460.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS: DEFENSE

Committee on Appropriations: Subcommittee on Defense approved for full Committee consideration H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, with an amendment in the nature of a substitute.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 4 public bills, H.R. 3893–3896 were introduced. **Page H8348**

Additional Cosponsors: **Page H8348**

Reports Filed: There were no reports filed today.

Speaker: Read a letter from the Speaker wherein he appointed Representative Boozman to act as Speaker pro tempore for today. **Page H8345**

Committee Resignation: Read a letter from Representative Sensenbrenner wherein he resigned from the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina. **Pages H8345–46**

Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina—Appointment: The Chair announced the Speaker's appointment of Representative Miller of Florida to the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina. **Page H8346**

Senate Message: Message received from the Senate today appears on page H8345.

Senate Referrals: S. 1752 was held at the desk; S. 1758 was referred to the Committee on Resources; and S. 1764 was referred to the Committees on Budget, Education and the Workforce and Transportation and Infrastructure. **Page H8346**

Quorum Calls—Votes: There were no votes or quorum calls.

Adjournment: The House met at 2 p.m. and adjourned at 2:05 p.m.

Committee Meetings

PARTNERS FOR FISH AND WILDLIFE ACT

Committee on Resources: On September 23, the Subcommittee on Fisheries and Oceans held a hearing on the following bills: S. 260 and H.R. 2018, Partners for Fish and Wildlife Act. Testimony was heard from Matt Hogan, Acting Director, U.S. Fish and Wildlife Service, Department of the Interior; and public witnesses.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D 959)*

H.R. 3761, to provide special rules for disaster relief employment under the Workforce Investment Act of 1998 for individuals displaced by Hurricane Katrina. Signed on September 23, 2005. (Public Law 109–72)

H.R. 3768, to provide emergency tax relief for persons affected by Hurricane Katrina. Signed on September 23, 2005. (Public Law 109–73)

COMMITTEE MEETINGS FOR TUESDAY, SEPTEMBER 27, 2005

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services: to hold hearings to examine needed improvements to defense acquisition processes and organizations, 9:30 a.m., SR–325.

Committee on Energy and Natural Resources: to hold hearings to examine S. 1701, to amend the Surface Mining Control and Reclamation Act of 1977 to improve the reclamation of abandoned mines, and S. 961, to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize and reform the Abandoned Mine Reclamation Program, 10 a.m., SD–366.

Committee on Foreign Relations: to hold hearings to examine the nomination of John J. Danilovich, of California, to be Chief Executive Officer, Millennium Challenge Corporation, 9:30 a.m., SD–419.

Subcommittee on International Economic Policy, Export and Trade Promotion, to hold hearings to examine energy supplies in Eurasia and implications for U.S. energy security, 2:30 p.m., SD–419.

Committee on Homeland Security and Governmental Affairs: Subcommittee on Oversight of Government Management,

the Federal Workforce, and the District of Columbia, to hold hearings to examine assessing progress in the Federal government regarding alternative personnel systems, focusing on systems to learn where personnel systems have been successfully employed and what steps have been taken in their development to ensure effective implementation and operation, 10 a.m., SD–342.

Subcommittee on Federal Financial Management, Government Information, and International Security, to hold hearings to examine housing-related programs for the poor, focusing on existing challenges in measuring improper rent subsidy payments in housing assistance programs at HUD, as well as Federal oversight of the Low-Income Home Energy Assistance Program, 2:30 p.m., SD–342.

Select Committee on Intelligence: to receive a closed briefing regarding certain intelligence matters, 2:30 p.m., SH–219.

House

Committee on Appropriations, Subcommittee on Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies, hearing on Department of Housing and Urban Development (Hurricane Katrina), 9:30 a.m., 2358 Rayburn.

Committee on Armed Services, to mark up a resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission as submitted by the President on September 15, 2005, 7 p.m., 2118 Rayburn.

Committee Defense Review Threat Panel, hearing on Threats in Asia, 10 a.m., 2118 Rayburn.

Committee on Energy and Commerce, Subcommittee on Environment and Hazardous Materials, hearing entitled "Hurricane Katrina: Assessing the Present Environmental Status," 2 p.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Domestic and International Monetary Policy, Trade, and Technology, hearing entitled "IDA–14: Historic Advance or Incremental Change in Debt and Development Policy," 2 p.m., 2128 Rayburn.

Committee on Government Reform, Subcommittee on Federal Workforce and Agency Organization, hearing entitled "It's Time to React—Reauthorizing Executive Authority to Consolidate Tasks: Establishing Results and Sunset Commissions (H.R. 3276 and H.R. 3277)," 2 p.m., 2247 Rayburn.

Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, hearing on H.R. 1956, Business Activity Tax Simplification Act of 2005, 1 p.m., 2141 Rayburn.

Subcommittee on Crime, Terrorism, and Homeland Security, hearing on H.R. 3889, Methamphetamine Epidemic Elimination Act, 4 p.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Forests and Forest Health, hearing on the following bills: H.R. 679, To direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah; H.R. 2069, Utah Recreational Land Exchange Act of 2005; H.R. 3462, To provide for the conveyance of the Bureau of Land Management parcels known as the White Acre and Gambel Oak properties and related real property to Park City, Utah; and H.R. 3818, Forest Service Partnership Enhancement Act of 2005, 10 a.m., 1334 Longworth.

Subcommittee on Water and Power, hearing on the following measures: H.R. 1564, Yakima-Tieton Irrigation District Conveyance Act of 2005; H.R. 2873, Albuquerque Biological Park Title Clarification Act; H.R. 2925, To amend the Reclamation States Emergency Drought Relief Act of 1991 to extend the authority for drought assistance; H.R. 3443, To direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District; and a measure regarding a water supply project near Madera, California, 10 a.m., 1324 Longworth.

Committee on Rules, to consider H.R. 3402, Department of Justice Appropriations Authorization Act, Fiscal Years 2006 through 2009, 5 p.m., H313 Capitol.

Committee on Ways and Means, Subcommittee on Social Security and the Subcommittee on Human Resources, joint hearing on the Commissioner of Social Security's proposed regulation to improve the disability determination process, 4 p.m., 1100 Longworth.

Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, hearing entitled "Hurricane Katrina: the Role of the Federal Emergency Management Agency," 10 a.m., 2154 Rayburn.

Next Meeting of the SENATE

9:45 a.m., Tuesday, September 27

Next Meeting of the HOUSE OF REPRESENTATIVES

12:30 p.m., Tuesday, September 27

Senate Chamber

Program for Tuesday: Senate will continue consideration of the nomination of John G. Roberts, Jr., of Maryland, to be Chief Justice of the United States.

(Senate will recess from 12:30 p.m. until 2:15 p.m. for their respective party conferences.)

House Chamber

Program for Tuesday: Consideration of Suspensions: (1) H.R. 3863, Natural Disaster Student Aid Fairness Act; (2) H.J. Res. 66, Supporting the goals and ideals of ''Lights On Afterschool!'', a national celebration of after school programs; (3) H.R. 3703, Staff Sergeant Michael Schafer Post Office Building Designation Act; (4) H.R. 2062, Randall D. Shughart Post Office Building Designation Act; (5) H.R. 438, Maudelle Shirek Post Office Building Designation Act; and (6) H. Con. Res. 209, Supporting the goals and ideals of Domestic Violence Awareness Month.

Extensions of Remarks, as inserted in this issue

HOUSE

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